CODE OF ORDINANCES

CITY OF

KIRKSVILLE, MISSOURI

Published in 2020 by Order of the City Council

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municode

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PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Kirksville, Missouri.

Source materials used in the preparation of the Code were the 1989 Code, as supplemented through May 7, 2018, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1989 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon

indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Jean B. Lindsay, Editor, of the Municipal Code Corpora-

tion, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mari E. Macomber, City Manager, and Lindsay Leckbee, City Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

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Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Kirksville, Missouri," and may be so cited. Such ordinances may also be cited as the "Kirksville City Code."
(Code 1974, § 1-1; Code 1989, § 1-1)

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all other ordinances of the city, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance, or unless inconsistent with the manifest intent of the city council, or unless the context clearly requires otherwise:

City. The term "the city" or "this city" means the City of Kirksville, Missouri.

City council. The term "city council" or "the council" means the city council of Kirksville.

Code. The term "Code" means the Code of Ordinances, City of Kirksville, Missouri, as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Sunday it shall be excluded.

County. The term "the county" or "this county" means Adair County, Missouri.

CSR. The abbreviation "CSR" means the Missouri Code of State regulations.

Delegation of authority. Whenever a provision of this Code requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision shall designate otherwise.

Fee schedule. The term "fee schedule" means the official consolidated list of city fees and other charges included in this Code that lists rates for utility or other public enterprises, fees of any nature, deposit amounts and various charges as determined from time to time by the city council.

Gender. When any subject matter, party or person is described or referred to by words importing the masculine gender, several matters and persons, and females as well as males, and bodies corporate as well as individuals, shall be deemed to be included.

Governor. The term "the governor" means the governor of the State of Missouri.

Joint authority. Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.

Liberal construction. 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.

Month. The term "month" means a calendar month.

Number. Whenever, in any ordinance, terms 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. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officials, boards, commissions, etc. Whenever reference is made to officials, boards, commissions, committees and the like, by title only, they shall be construed as if followed by the words "of the City of Kirksville, Missouri." References to specific officials shall be construed as if also followed by the words "or designee."

Owner. The term "owner," applied to a building, land or personal property, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building, land or personal property.

Parkway or *terrace.* The term "parkway" or "terrace" means that area which lies between the curbline or edge of street and the sidewalk.

Person. The term "person" includes a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. The term "person" also includes an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the term "person" is used in any section of this Code prescribing a penalty or fine, as to partnerships or associations, the term "person" includes the partners or members thereof, and as to corporations, includes the officers, agents or members thereof who are responsible for any violation of such section.

Personal property. The term "personal property" includes money, goods, chattels, things in action and evidences of debt.

Preceding; following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and tangible and intangible personal property.

Public way. The term "public way" includes any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

Real property. The term "real property," "premises," "real estate" or "lands" shall be deemed to be coextensive with lands, tenements and hereditaments.

RSMo. The abbreviation "RSMo" means the latest edition of the Revised Statutes of Missouri, as amended.

Shall; may. The term "shall" is mandatory; the term "may" is permissive.

Sidewalk. The term "sidewalk" means that portion of the street between the curbline or the inside line of any parkway which may be present and the adjacent property line which is intended for use of pedestrians.

Signature. Where the written signature of any person is required, the proper handwriting of such person or mark shall be intended.

State. The term "the state" or "this state" means the State of Missouri.

Street. The term "street" means and includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

Tenant or *occupant.* The term "tenant" or "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense. The use of any verb in the present tense shall include the future when applicable.

Writing; written. The terms "writing" and "written" include printing, lithographing or any other mode of representing words and letters.

Year. The term "year" means a calendar year, unless otherwise expressed, and the term "year" shall be equivalent to the term "year of our Lord."
(Code 1974, § 1-2; Code 1989, § 1-2)

Sec. 1-3. Catchlines, editorial notes and references; references to Code parts.

(a) The catchlines of the several sections of this Code printed in boldface are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor 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 reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are intended merely to indicate the source of matter contained in the section.

(c) Editor's notes and state law references that appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(d) All references to chapters, articles, divisions, subdivisions, or sections are to chapters, articles, divisions, subdivisions, or section of this Code, unless otherwise specified.
(Code 1974, § 1-3(a); Code 1989, § 1-3(a))

Sec. 1-4. Provisions considered as continuation 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 a continuation thereof and not as new enactments.
(Code 1974, § 1-3(b); Code 1989, § 1-3(b))

Sec. 1-5. 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 otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.
(Code 1974, § 1-1; Code 1989, § 1-4)

Sec. 1-6. Ordinances—Repeal not to affect liabilities, etc.

Whenever any ordinance or part of any ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying the same shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in anywise be affected, released or discharged but may be prosecuted, enjoyed and recovered as fully as if such ordinance or provisions has continued in force, unless it shall be therein otherwise expressly provided.
(Code 1974, § 1-5; Code 1989, § 1-5)

Sec. 1-7. Ordinances—Repeal not to revive former ordinance.

When an ordinance repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it is expressly so provided, and such former ordinance, clause or provision is set forth at length.
(Code 1974, § 1-6; Code 1989, § 1-6)

Sec. 1-8. General penalty; continuing violations.

(a) Except as hereinafter provided, whenever in this Code or in any other ordinance of the city or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the city any act is prohibited or is made or declared to be unlawful or an ordinance violation, or whenever in such Code or in such other city ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the city or of any rule, regulation or order promulgated pursuant to such Code or other city ordinance shall be punished by a fine not exceeding $500.00 or by imprisonment for a period of not exceeding three months, or by both such fine and imprisonment.

(b) Whenever any provision of state law limits the authority of the city to punish the violation of any particular provision of this Code or other city ordinance, rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation on such particular provision of this Code or other city ordinance, rule, regulation or order shall be

punished by the imposition of not more than the maximum fine or imprisonment so authorized or by both such fine or imprisonment.

(c) Each day any violation of this Code or any other city ordinance, rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.
(Code 1974, § 1-7; Code 1989, § 1-7)

Sec. 1-9. 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 this 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 this Code. The pages of a supplement shall be so numbered that they will fit properly into this 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, this 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 this Code which have been repealed shall be excluded from this 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, nonsubstantive 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 this 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 this 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 _____ through _____" (inserting section numbers to indicate the sections of this Code which embody the substantive sections of the ordinance incorporated into this Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into this 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 this Code.

(Code 1989, § 1-8)

Sec. 1-10. 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 to be misrepresented thereby. Any person, firm, or corporation violating this section shall be punished as provided in section 1-8.
(Code 1989, § 1-9)

Sec. 1-11. Prosecution where different provisions exist for same offense.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the city, the prosecuting officer may elect under which to proceed, but not more than one 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.
(Code 1989, § 1-10)

Sec. 1-12. 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 any offense or ordinance violation, whether individually or in connection with one or more other persons or as principal, agent or accessory, shall be guilty of such unlawful act or offense or ordinance violation, 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.
(Code 1989, § 1-10)

Sec. 1-13. Ordinances saved from repeal generally.

(a) Nothing contained in this Code of Ordinances or the ordinance adopting this Code shall be construed to repeal or otherwise affect the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of the ordinance adopting this Code;

(2) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;

(3) Any ordinance fixing salaries or other compensation of officers, employees or special counsel of the city not inconsistent with such Code and ordinances pertaining to retirement, disability or other pension or benefit accrued or accruing to any city officer or employee;

(4) Any appropriation ordinance;

(5) Any right or franchise granted by the city council to any person, firm or corporation;

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, or in any way affecting any street or public way in the city;

(7) Any ordinance establishing and prescribing the street grades of any street in the city;

(8) Any ordinance providing for local improvements or assessing taxes therefor;

(9) Any ordinance dedicating or accepting any plat or subdivision in the city and any ordinance accepting dedications, easements, lot splits, lot combinations or property interests;

(10) Any ordinance establishing traffic regulations for specific streets or portions thereof, including ordinances establishing speed limits, not inconsistent with this Code;

(11) Any ordinance establishing election or other special districts within the city;

(12) Any ordinance annexing property to the city;

(13) Any zoning ordinance of the city;

(14) Any ordinance authorizing issuance of a special use permit by the city;

(15) Any ordinance establishing a property within the city as historic property;

(16) Any ordinance authorizing an agreement between the city and another entity;

(17) Any ordinance levying taxes, not in conflict or inconsistent with the provisions of this Code;

(18) The city personnel policy manual;

(19) The city budget;

(20) Any ordinance that is temporary, although general in effect, or special, although permanent in effect.

(b) Such repeal shall not be construed to revive any ordinance or part of an ordinance which is repealed by this Code.
(Code 1989, § 1-12)

Chapter 2

ADMINISTRATION

Article I. In General

Article II. City Council

Division 1. Generally

Division 2. Ordinances

Article III. Officers and Employees

Article IV. Finances (Reserved)

Article V. Planning and Zoning Commission

Article VI. Airport and Transportation Commission

Article VII. Kirksville Trust

Article VIII. Tax Increment Financing Commission

Article IX. Lakes, Parks and Recreation Commission

Article X. Historic Preservation

Article XI. City Property

Article XII. Geographic Information Systems (GIS)

Article XIII. Municipal Ordinance Violations

ARTICLE I. IN GENERAL

Sec. 2-1. Conflicts of interest—Generally.

(a) The following acts shall constitute conflicts of interest and are expressly prohibited and punishment shall be assessed therefor:

(1) No officer or employee elected or appointed in the city shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof or services to be furnished or performed for the city.

(2) No such officer or employee shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, or services to be furnished or performed for any person or to anyone operating interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or any other public utility within the territorial limits of the city.

(3) No such officer or employee shall accept or receive, directly or indirectly, from any person operating within the territorial limits of the city, any monetary favor or receive from any interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line or telephone exchange or other business or operating under a public franchise any frank, free ticket or free service or accept or receipt, directly or indirectly, from any such person any other service upon terms more favorable than is granted to the public generally.

(4) No officer or employee elected or appointed in private capacity shall offer, sell, bid, buy, purchase or in any manner deal, contract or barter, either directly or indirectly, for any merchandise, materials, equipment, foodstuffs or services to or from the city.

(5) No offer, purchase, sale, bid, contract and agreement shall be approved, accepted or given by the city to any domestic or foreign corporation, for any merchandise, materials, equipment, foodstuffs or services, who has among its major stockholders, any city officer or employee, either elected or appointed.

(6) No officer or employee of the city, by solicitation or otherwise, shall exert influence, directly or indirectly, to influence other officers or employees to deal with any person in which the officer or employee has some interest or to favor any particular person or shall in any manner contribute money, labor or other valuable thing to any person for such purposes.

(b) None of the provisions of subsection (a) of this section are intended to be all inclusive or in any manner limit the contractual capacity of any officer or employee in official capacity while acting in behalf of the city, but such subsection is intended only to prohibit the dealing by or with persons in which any city officer or employee has some interest, either directly or indirectly.

(c) Any violation of the provisions of this section shall be an ordinance violation, and every such contract, purchase or agreement shall be void, provided that the prohibition of free transportation shall not apply to police officers or firefighters in uniform, nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected by this section.
(Code 1974, § 2-1; Code 1989, § 2-1)

Sec. 2-2. Conflicts of interest—Procedure for disclosure.

(a) *Declaration of policy.* The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for

disclosure by certain officials and employees of private financial or other interests in matters affecting the city.

(b) *Conflicts of interest.* The mayor or any member of the city council who has a substantial personal or private interest, as defined by state law, in any bill shall disclose on the records of the city council the nature of the interest and shall be disqualified from voting on any matters relating to this interest.

(c) *Disclosure reports.*

(1) Each elected official and the city manager shall disclose the following information by May 1 if any such transactions were engaged in during the previous calendar year:

a. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identifies of the parties to each transaction with a total value in excess of $500.00, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision; and

b. The date and the identifies of the parties to each transaction known to the person with a total value in excess of $500.00, if any, that any business entity in which such person has a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision.

(2) The city manager also shall disclose by May 1 for the previous calendar year the following information:

a. The name and address of each of the employers of such person from who income of $1,000.00 or more was received during the year covered by the statement;

b. The name and address of each sole proprietorship that the person owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which the person was a partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

c. The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.

(d) *Filing of reports.* The reports shall be filed with the city clerk and with the Secretary of State prior to January 1, 1993, and thereafter with the ethics commission. The reports shall be available for public inspection and copying during normal business hours.

(e) *When filed.* The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year:

(1) Each person appointed to office shall file the statement within 30 days of such appointment of employment;

(2) Every other person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31, provided that any member of the city council may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.

(Code 1989, § 2-2; Ord. No. 11003, §§ 1—5, 8-19-1991)

Sec. 2-3. Rules of procedure for meetings of council and all boards and commissions.

(a) The following rules of procedure will govern the conduct of all meetings of the city council and all boards and commission created by this Code with memberships appointed by the city council. Except as otherwise provided by state law or local ordinance, meeting procedures delineated herein may be suspended by the consent of a majority of the city council, board or commission after having recorded the same in the official minutes of the meeting.

(1) *Rule 1.* The mayor, chairperson or other duly authorized presiding officer shall decide all questions of order. The presiding officer may seek counsel or other parliamentary advice that the presiding officer considers appropriate in order to resolve procedural questions, but the final decision on points of order and meeting procedure shall rest with the chair.

(2) *Rule 2.* Except as otherwise required, public hearings shall be declared to be open by the chair once the chair determines that the legal requirements for convening the hearing have been met. The names of persons testifying at a public hearing shall be recorded in the minutes. Persons making comments at a hearing shall first be recognized by the chair, and shall address their comments to the members of the council, board or commission convening the hearing.

(3) *Rule 3.* Only procedural motions shall be permitted during a hearing. All other motions shall be out of order. Except as otherwise provided, public hearings shall be declared to be at an end by the chair once all persons wishing to speak or make other testimony have been given the opportunity to speak at least once or submit written comments. By a majority vote of the council, board or commission, any public hearing may be delayed, postponed or rescheduled to an alternate time or location. Council, board or commission action on an item that has been the subject of a public hearing may be taken at any time following the end of the hearing; it may occur immediately afterward, but need not occur at the same meeting.

(4) *Rule 4.* A vote of yeas and nays, or a show of hands vote, shall be taken and recorded in the journal of the council, board or commission for all ordinances or propositions which shall create any liability against, or obligation upon, the city for the expenditure or appropriation of funds, and in all other instances where a request for same is made by any member of the council, board or commission.

(5) *Rule 5.* The published agenda of all meetings of the city council, city board or commission appointed by the city council, may be altered or suspended by a consensus vote or a majority vote of the council, board or commission present and voting, and having recorded the same in the official minutes of the meeting.

(6) *Rule 6.* Any item on the agenda of all meetings of the city council, board or commission appointed by the city council, shall be considered defeated if no motion is made to discuss the proposed item. If no motion is made after the presiding officer has called for a motion two consecutive times, the proposal shall not be discussed at that meeting by the council, board or commission appointed by the city council.

(b) The general public shall be afforded an opportunity to address public meetings of the city council and other city boards and commissions. Except as provided herein, the council, as well as each board and commission, may establish their own rules governing the receipt of public comment. However, protracted, repetitive, irrelevant or abusive remarks from the public may be terminated or closed off at any time by the chair or other presiding officer.

(c) The rules contained in the current edition of Robert's Rules of Order Newly Revised shall be the parliamentary authority and shall govern the conduct of all meetings of the city council, and boards and commissions appointed by the city council, in all cases where they are not inconsistent with Missouri Revised Statutes, or ordinances of the city, including this section.

(d) A quorum shall be required for any council, board or commission to take formal action. A council, board or commission may meet as a committee-of-the-whole in the absence of a quorum, but its proceedings shall not be binding and shall not constitute a meeting of the council, board of commission. A quorum shall consist of a majority of the membership of the council, board or commission duly elected or appointed. A quorum of the city council shall consist of three members. For a measure to pass before the council if only a quorum is present, all three members must vote in the affirmative.

(e) No city board or commission member shall count toward a quorum or be allowed to participate in voting if not physically present.

(f) Unless otherwise required, the chair of a city board or commission will be responsible for bringing member absences to the attention of the city council if the absences interfere with the ability of the board or commission to perform its responsibilities. It shall be the chair's responsibility to make a recommendation to the city council on the removal of a member due to absences.
(Code 1989, § 2-3; Ord. No. 11306, §§ 1—4, 8-18-1997)

Sec. 2-4. City elections.

(a) All city elections shall be conducted as provided in RSMo 78.530; provided, however, that the city council has abolished the primary election for the office of councilmember.

(b) In all city general or special city elections, the nomination of candidates, the manner of voting and all other matters pertaining to the election shall be governed by the provisions of state general election law.

(c) Candidates for the office of councilmember may file their notice of candidacy at any time between the 15th Tuesday prior to the date of the election up to 5:00 p.m. on the 11th Tuesday prior to the date of the election.

Secs. 2-5—2-24. Reserved.

ARTICLE II. CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 2-25. Salary for elected officials.

(a) The city council shall hold at least one regular meeting every month. Special meetings may be called by the mayor at the mayor's own instance or upon written request of two members of the council.

(b) The city council retains the right to increase or decrease the salary at any time in accordance with RSMo 78.590, to be payable quarterly. The city council is prohibited from increasing its compensation during the term of office. Councilmembers will receive compensation of $200.00 per month and the mayor will receive $300.00 per month, provided the individual member is in attendance at all regular and special city council meetings for each corresponding month. No compensation will be given if one or more of these meetings are not attended during a month. At any time the mayor pro tem should preside over one or more regular or special session council meetings in the absence of the mayor, the salary will remain at $200.00 per month for the councilmember serving as mayor pro tem. The city clerk will record attendance and prepare timesheets for payroll processing. Compensation will be payable after time served, the first payroll following the end of the quarter.
(Code 1989, § 2-16; Ord. No. 11673, § 1, 6-28-2004; Ord. No. 11824, § 1, 2-5-2008; Ord. No. 11834, §§ 1, 2, 4-14-2008; Ord. No. 12026, § 1, 10-15-2012; Ord. No. 12137, § 1, 12-1-2014)

Secs. 2-26—2-54. Reserved.

DIVISION 2. ORDINANCES

Sec. 2-55. Procedure for passage.

(a) When the chair of the next city council meeting after an ordinance has been placed on the council's agenda reaches the ordinance on the agenda, the chair shall request the city clerk to read the ordinance.

(b) If copies of the proposed ordinance have been available for public inspection prior to the meeting, the proposed ordinance shall be read by title only, unless any one or more councilmembers shall request that the proposed ordinance be read in its entirety, in which case the proposed ordinance shall be read in its entirety. If copies of the proposed ordinance have not been available for public inspection prior to the meeting, then the proposed ordinance shall be read in its entirety.

(c) After the proposed ordinance has been read, the chair shall ask for a motion on the ordinance and, after receiving a motion and a second, may proceed with the due deliberation of the same, and upon receiving a call for the question the councilmembers shall then vote on the ordinance and their votes shall be recorded by the city clerk, and if said ordinance receives a majority vote then the ordinance shall be deemed passed on the first reading.

(d) If the ordinance is deemed passed on the first reading then the chair shall request the city clerk to read the ordinance a second time.

(e) Upon a request for a second reading, the city clerk shall read the proposed ordinance by title only.

(f) After the second reading of the ordinance, the chair shall ask for a motion on the ordinance and, after receiving a motion and a second, may proceed with the due deliberation of the same, and upon receiving a call for the question the councilmembers shall then vote on the ordinance and their votes shall be recorded by the city clerk, and if said ordinance receives a majority vote then the ordinance shall be deemed passed on the second and final reading.

(g) After an ordinance is deemed passed on the first reading, any councilmember may move to defer the second reading of said ordinance to the next regular or specially scheduled city council meeting, and upon said motion and a second the council shall proceed with the due deliberation of said motion, and upon receiving a call for the question the councilmembers, shall then vote on the motion and their votes shall be recorded by the city clerk, and upon receiving a majority vote upon said motion the second reading of the proposed ordinance shall be deferred to the next regular or specially scheduled city council meeting, at which time said ordinance shall be read a second time and acted upon in the manner otherwise provided for herein.

(h) Upon successful passage on the second and final reading the ordinance shall be signed by the mayor, or if absent by the mayor pro tem or two councilmembers, at which time said ordinance shall be in full force and effect unless the effective date of said ordinance shall be stated otherwise therein.
(Code 1974, § 2-3; Code 1989, § 2-27; Ord. No. 10624, § 2, 8-6-1984; Ord. No. 10831, § 2, 8-15-1988)

Sec. 2-56. Procedure for adopting an emergency ordinance.

An ordinance may be adopted as an emergency ordinance when there is good cause such as direct and primary concern for public health, safety and welfare. An ordinance may be passed under an emergency procedure when an ordinance concerning public health, safety and welfare states in the title and/or context of the ordinance that such an emergency exists. The city clerk shall read the ordinance verbatim and in its entirety except for appropriations ordinances which may be read by summary information only. Upon receiving a motion and a second, the council may proceed with the due deliberation of the same and, upon receiving a call for the question, the councilmembers shall vote on the

ordinance and their vote shall be recorded by the city clerk, and such ordnance shall be deemed passed upon receiving a majority vote.
(Code 1989, § 2-29; Ord. No. 10624, § 3, 8-6-1984)

Sec. 2-57. Initiative, referendum procedure.

(a) Any proposal to adopt an ordinance except an ordinance appropriating money, emergency ordinances and ordinances for the levying of taxes may be submitted to the council by a petition signed by at least 25 percent of the registered voters. The signatures, verification, authentication, inspection, certification, amendment and submission of the petition shall be the same as that provided in RSMo 78.270.

(b) When a petition to adopt an ordinance is signed by at least 25 percent of the registered voters, the council shall pass the ordinance without alteration, within 20 days of the clerk's certification of the petition, or submit it for a vote at the next municipal or state primary or general election. If a majority of the voters voting on the proposed ordinance vote in favor thereof, it shall thereupon become a valid and binding ordinance of the city.

(c) If a petition protesting an ordinance, signed by at least 25 percent of the registered voters of the city, is presented to the council, the council shall reconsider such ordinance and, if it is not entirely repealed, submit the ordinance to the voters as provided by this section. Such ordinance shall not remain in effect after the election unless a majority of the voters voting on the same shall vote in favor thereof. The petition shall be submitted, verified and certified in accordance with the provisions of RSMo 78.270.

(d) The question shall be submitted in substantially the following form:

Shall the following ordinance be (adopted) or (repealed)? (Set out ordinance).

(e) Any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section. The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any municipal election; and should such proposition so submitted receive a majority of the votes cast thereon, such ordinance shall thereby be repealed or amended accordingly.
(Code 1989, § 2-30; Ord. No. 10627, §§ 1—4, 9-10-1984)

Secs. 2-58—2-87. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Sec. 2-88. Securing of insurance, social security for city officers, employees.

The city manager shall, in addition to all other duties placed upon the manager by state law or provisions of this Code or other ordinances of the city, do all things necessary to secure for all eligible officers and employees of the city any insurance and Social Security benefits made available to such officers and employees by the laws of the state and the provisions of this Code or other ordinances of the city.
(Code 1974, § 2-5; Code 1989, § 2-61)

Secs. 2-89—2-119. Reserved.

ARTICLE IV. FINANCES (RESERVED)

Secs. 2-120—2-136. Reserved.

ARTICLE V. PLANNING AND ZONING COMMISSION

Sec. 2-137. Created; purposes.

In order to make adequate provisions for and to stimulate, guide, direct, study, arrange and beautify the future development and growth of the city, there is hereby created a commission to be known as the city planning and zoning commission (P&Z).
(Code 1974, § 2-56; Code 1989, § 2-91)

Sec. 2-138. Composition; membership, appointment; terms; removal; vacancy; compensation.

The P&Z shall consist of nine members in compliance with RSMo 89.300 through 89.491; one of whom shall be a member of the city council to be appointed each year in April after the city council organizational meeting. The member of the city council shall be selected by the council from among its members. The other eight members shall be citizens qualified by knowledge or experience to act on questions pertaining to the development of city planning. The citizen members shall be appointed by the mayor, subject to approval of the council. The terms of all citizen members shall terminate on January 1. The council may remove any citizen member for cause stated in writing and after public hearing. Any appointment to fill vacancies shall be for the unexpired term only. All members serve without pay. The city attorney shall be an ex officio advisory member of the commission with no voting privilege and shall advise the commission of all legal matters. The city attorney shall serve in such capacity without pay.
(Code 1974, § 2-57; Code 1989, § 2-92; Ord. No. 10962, § 1, 11-5-1990; Ord. No. 11400, 8-2-1999)

Sec. 2-139. Election of officers; rules and regulations.

The P&Z shall appoint the employees and staff necessary for its work and may contract with city planners and other professional persons for the services that it requires.
(Code 1974, § 2-58; Code 1989, § 2-93)

Sec. 2-140. Powers and duties.

The powers and duties of the P&Z shall be as provided in RSMo 89.300 through 89.491.
(Code 1974, § 2-59; Code 1989, § 2-94)

Sec. 2-141. Reports; employees.

The P&Z shall make an annual report to the mayor covering its investigations, transactions and recommendations and shall make such other and further reports relative thereto as it may deem proper or as may be required by the mayor or the city council. Such report shall be submitted no later than March 1 of each year. The commission may employ such city planners, engineers, clerks and other persons as it may be authorized by the council.
(Code 1974, § 2-60; Code 1989, § 2-95)

Secs. 2-142—2-165. Reserved.

ARTICLE VI. AIRPORT AND TRANSPORTATION COMMISSION

Sec. 2-166. Created; composition; terms.

(a) An advisory board to be known as the airport and transportation commission (ATC) is hereby created. Said commission shall be composed of nine members to be appointed by the city council and to serve without compensation. The terms of office of the members of the ATC shall be three years, but initially the city council will make appointments in the following manner:

(1) Three for a term of one year;

(2) Three for a term of two years; and

(3) Three for a term of three years.

(b) The successors of the members so appointed shall each be appointed annually in August for a term of three years. All vacancies occurring in the ATC shall be filled by appointment of the city council for the remaining portion of the term of the position so vacated.

(c) The members of the ATC shall be persons deemed by the city council to be interested in improving the transportation resources, facilities, systems and networks serving the Kirksville area.
(Code 1989, § 2-101; Ord. No. 11151, § 2, 7-18-1994)

Sec. 2-167. Mission.

The ATC shall, from time to time, make recommendations to the city council as it deems proper for the furtherance and improvement of airport and other transportation facilities and systems, in accordance with the following mission: The mission and purpose of the ATC shall

be to recommend to the city council policies, rules, legislative initiatives and other actions which will enhance the aviation, highway, local street, sidewalks, trails, public transportation, traffic control and other transportation resources, facilities, systems and networks which serve the Kirksville area. This shall include review and recommendations of city policies used to respond to citizen requests for parking, speed control and other traffic regulations, review of the annual capital improvement plan as it relates to airport and transportation infrastructure improvements, airport use policies and related transportation issues on which policy recommendations may be requested by the city council or staff.
(Code 1989, § 2-102; Ord. No. 11151, § 3, 7-18-1994)

Sec. 2-168. Selection of officers; rules of procedure; records; meetings.

In April of each year, the ATC shall select a chairperson, vice-chairperson and secretary by majority vote of its membership. The ATC shall establish its own rules of procedure in accordance with state law, including the Missouri Sunshine Law. The commission shall keep a record of its activities, proceedings and actions, and shall meet no fewer than six times per calendar year in addition to such other meetings as are called by the chairperson. The membership of the commission shall include one current member of the city council, who shall be a voting member, shall attend all meetings and shall serve as a council liaison to be appointed each year in April.
(Code 1989, § 2-103; Ord. No. 11151, § 4, 7-18-1994)

Secs. 2-169—2-189. Reserved.

ARTICLE VII. KIRKSVILLE TRUST

Sec. 2-190. Kirksville Trust established.

The city council hereby establishes the city community trust funds to be known collectively as the Kirksville Trust. The Kirksville Trust shall exist separately from the general fund and is for the purpose of holding, aggregating and investing charitable contributions to be used for the betterment of the city. Establishment of the Kirksville Trust shall not affect charitable programs established by the city council or city manager within the general fund or other city funds.
(Code 1989, § 2-141; Ord. No. 11406, § 1, 9-7-1999)

Sec. 2-191. Administration.

(a) Kirksville Trust accounts shall be established for receipt of unrestricted charitable contributions made to the Kirksville Trust. Assets in the Kirksville Trust shall be commingled and invested in a way that provides for the growth and security of the Kirksville Trust.

(b) The city council or city manager may establish individual funds or accounts in the Kirksville Trust for special purposes or to receive restricted gifts or contributions. Restricted gifts or special purpose accounts shall be managed in a fiscally advantageous manner and in compliance with the restrictions or special purposes.

(c) All Kirksville Trust assets shall be managed and accounted for according to procedures approved by the city manager. The city manager shall report the status of the Kirksville Trust to the city council annually.
(Code 1989, § 2-142; Ord. No. 11406, § 2, 9-7-1999)

Sec. 2-192. Gifts.

(a) Gifts to the Kirksville Trust of real property may be accepted only by the city council.

(b) Gifts to the Kirksville Trust of personal property and gifts in cash may be accepted by the city manager or, in the manager's discretion, referred to the city council.

(c) Restricted gifts, other than those made to an existing restricted or special program or account, of personal property valued at $1,000.00 or less or of $1,000.00 or less in cash shall not be accepted for the Kirksville Trust.
(Code 1989, § 2-143; Ord. No. 11406, § 3, 9-7-1999)

Sec. 2-193. Expenditures.

(a) Kirksville Trust funds shall be expended only after they have been appropriated by the city council for uses and purposes approved by the city council.

(b) A restricted gift shall be used only for the purpose specified by the donor. If any restricted gift of personal property or cash is used for a purpose other than that specified by the donor, the donor or the donor's heirs or successors shall have the right to a return of the gift or its cash equivalent.
(Code 1989, § 2-144; Ord. No. 11406, § 4, 9-7-1999)

Secs. 2-194—2-224. Reserved.

ARTICLE VIII. TAX INCREMENT FINANCING COMMISSION

Sec. 2-225. Created.

There is created a commission to be known as the tax increment financing commission of the city (the "commission"). The commission shall have continuous existence unless and until terminated by the adoption of an ordinance of the council terminating it.
(Code 1989, § 2-161; Ord. No. 11404, § 1, 8-30-1999)

Sec. 2-226. Membership.

The commission shall be composed of 11 members to be appointed as follows:

(1) Six members shall be appointed by the mayor of the city, with the consent of the city council.

(2) Two members shall be appointed by the presiding commissioner of the county, with the consent of the majority of the county commission.

(3) Within 30 days after the receipt of notice of a proposed redevelopment area, redevelopment plan or redevelopment project required RSMo 99.820, part of the Missouri Tax Increment Financing Act, RSMo 99.800 et seq., two members shall be appointed by the school board whose district is included within such proposed redevelopment area. The manner of selection of the members is left to the discretion of the affected district.

(4) Within 30 days after the receipt of notice of a proposed redevelopment area, redevelopment plan or redevelopment project required by RSMo 99.820, part of the Missouri Tax Increment Financing Act, RSMo 99.800 et seq., one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes (excluding the representatives of the council) within the area selected for a redevelopment plan.

(Code 1989, § 2-162; Ord. No. 11404, § 2, 8-30-1999)

Sec. 2-227. Terms.

The terms of the members shall be as follows:

(1) With regard to the term of the first six members appointed by the mayor with the consent of the council:

a. Two shall be designated to serve for terms of two years;

b. Two shall be designated to serve for terms of three years; and

c. Two shall be designated to serve for terms of four years.

Thereafter, members appointed by the mayor with the consent of the council shall serve for a term of four years. All vacancies shall be filled for the unexpired terms in the same manner as were the original appointments.

(2) At the option of the members appointed under section 2-226, the members who are appointed by the school board and other taxing districts may serve on the commission for a term which coincides with the length of time such redevelopment project, redevelopment plan or the designation of the area for which they were appointed is being considered for approval by the commission, or for a

definite term pursuant to RSMo 99.820.2, part of the Missouri Tax Increment Financing Act, RSMo 99.800 et seq. If the members representing school district and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term will terminate upon final approval of such redevelopment project, redevelopment plan or designation of the area by the council.

(Code 1989, § 2-163; Ord. No. 11404, § 3, 8-30-1999)

Sec. 2-228. Authorization to vote.

Those commission members who are appointed by the school board or other taxing districts shall only be authorized to vote on matters specifically and directly relating to the redevelopment plan, redevelopment project or redevelopment area upon which their affected taxing districts levy ad valorem taxes.

(Code 1989, § 2-164; Ord. No. 11404, § 4, 8-30-1999)

Sec. 2-229. Organization.

The commission, upon the effective date of the ordinance from which this article is derived, shall organize itself and elect from its six members appointed by the mayor, a chairperson, vice-chairperson, treasurer and secretary, each to serve for one-year terms or until their successors are elected.

(Code 1989, § 2-165; Ord. No. 11404, § 5, 8-30-1999)

Sec. 2-230. Meetings.

The commission shall meet regularly and shall adopt such rules and regulations for operations as shall enable it to maintain an orderly procedure for its business and to effectively and efficiently exercise the powers authorized by the statute and delegated to it by the council.

(Code 1989, § 2-166; Ord. No. 11404, § 6, 8-30-1999)

Sec. 2-231. Reports.

The commission shall keep records and minutes of its meetings and shall report annually to the council with regard to its activities.

(Code 1989, § 2-167; Ord. No. 11404, § 7, 8-30-1999)

Secs. 2-232—2-242. Reserved.

ARTICLE IX. LAKES, PARKS AND RECREATION COMMISSION

Sec. 2-243. Created; terms, qualifications.

(a) The city has created an advisory board to be known as the "Lakes, Parks and Recreation Commission" (LPRC). Such board shall be composed of ten members to be appointed by the city council and to serve without compensation. The terms of office of the LPRC shall be three years.

(b) The successors of the members so appointed shall each be appointed annually in January, for a term of three years. All vacancies occurring in the LPRC shall be filled by appointment of the city council for the remaining portion of the term of the position so vacated. The city council representative shall be appointed each year at the post-election city council organizational meeting.

(c) The members of the LPRC shall be persons deemed by the city council to be interested in the parks, lakes, open spaces, recreation facilities and programs and city plans and regulations governing the development, expansion, maintenance, modification and utilization of such facilities and other public resources related to parks and open space in the Kirksville area. Any member may be removed by a majority vote of the city council.

(d) Other members of the LPRC may be appointed by other entities based on agreements and partnerships.

(Code 1989, § 19-41; Ord. No. 11172, § 2, 1-23-1995; Ord. No. 11852, § 1, 12-1-2008; Ord. No. 11904, § 1, 12-21-2009; Ord. No. 12185, § 1, 12-7-2015)

Sec. 2-244. Duties.

The LPRC shall make recommendations to the city council as it deems proper for the furtherance and improvement of area lakes, parks, open spaces, and recreation facilities and programs, in accordance with the following mission: The mission and purpose of the LPRC shall be to recommend to the city council policies, rules, legislative initiatives, development plans, programs and other actions which serve to preserve and protect the city's lakes, park lands and open space conservation areas; which enhance active and passive recreational activities for the residents of the city; which maintain public safety; and which provide for long-range planning for future uses and community needs regarding lakes, parks, open spaces and recreational facilities and programs in and around the city. This shall include review and approval of city policies and ordinances concerning lake and park use; review of capital improvement projects proposed for lakes, park lands and recreation facilities; and on policy issues concerning lakes, parks and recreation, including the dedication of subdivision lands, as may be requested by the city council or staff.
(Code 1989, § 19-42; Ord. No. 11172, § 3, 1-23-1995)

Sec. 2-245. Organization; meetings.

In January of each year, the LPRC shall select a chairperson, vice-chairperson and secretary by majority vote of the commission. The LPRC shall establish its own rules of procedure in accordance with state law, including the Missouri Sunshine Law. The LPRC shall keep a record of its activities, proceedings and actions, and shall hold regular monthly meetings at such times as it shall fix, and other meetings at the call of the chairperson, unless a meeting shall be canceled by the chairperson due to lack of agenda items. The composition of the LPRC shall include one member of the city council, so elected. The member of the city council shall be selected by the council from among its members and shall have voting privilege.
(Code 1989, § 19-43)

Sec. 2-246. Devolution.

Responsibilities and references to the board or commission occurring in this Code shall devolve to the LPRC.
(Code 1989, § 19-44; Ord. No. 11172, § 5, 1-23-1995)

Secs. 2-247—2-255. Reserved.

ARTICLE X. HISTORIC PRESERVATION

Sec. 2-256. Purpose; definitions.

(a) *Purpose.* The purpose of this article is to promote the educational, cultural, economic, and general welfare of the community by:

(1) Providing a mechanism to identify, evaluate, and preserve the distinctive historic and architectural characteristics of the city;

(2) Fostering civic pride in the beauty and accomplishments of the past as represented in the city's landmarks and historic areas;

(3) Conserving and improving the value of property designated as landmarks or historic districts;

(4) Protecting and enhancing the attractiveness of the city to home buyers, home owners, residents, tourists, visitors, and shoppers, thereby supporting and promoting business, commerce, industry, and providing economic benefit to the city;

(5) Fostering and encouraging preservation, restoration, and rehabilitation of historic structures, areas, and neighborhoods;

(6) Promoting the use of landmarks and historic areas for the education, pleasure and welfare of the people of the city;

(7) Encouraging the identification, evaluation, protection, and interpretation of the prehistoric and historic archaeological resources within the incorporated limits of the city.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alteration means any act or process that changes one or more historic, architectural, or physical features of an area, site, landscape, place and/or structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure; the expansion or significant modification of agricultural activities; and clearing, grading, or other modification of an area, site, or landscape that changes its current condition.

Certificate of appropriateness means a certificate issued by the Kirksville Historic Preservation Commission (KHPC) indicating its approval of the architectural appropriateness of plans for construction, alteration, removal or demolition of a landmark or of a structure within a historic district.

Certificate of economic hardship means a certificate issued by the KHPC authorizing an alteration, construction, removal or demolition, even though a certificate of appropriateness has previously been denied.

Construction means the act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Demolition means any act which destroys in part or in whole a structure, a landmark, or a structure within a historic district.

Design guideline means a standard of appropriate activity that will preserve the historic, prehistoric, architectural, scenic, or aesthetic character of a landmark or historic district.

Exterior architectural appearance means the architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and appurtenant elements.

Historic district means an area designated as being zoned H, Historic by ordinance of the city council which may include individual landmarks, as well as other properties or structures which, while not of such historic and or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics and historical significance of the historic district.

Historic significance means character, interest or value as part of the development, heritage, or culture of the community, county, state or country; as the location of an important local, county, state or national event; or through identification with persons who made an important contribution to the development of the community, county, state or country.

KHPC means members of the Kirksville Historic Preservation Commission.

Landmark means a property or structure designated as a landmark by ordinance of the city council, pursuant to procedures prescribed herein, which is worthy of rehabilitation, restoration, interpretation and preservation because of its historic, architectural or archaeological significance to the city, and zoned appropriately as an H, Historic overlay property.

Minimum maintenance means the minimum regulations governing the conditions and maintenance of all existing structures, as set out in the 2015 International Property Maintenance Code, as published by the International Code Council, Inc. and adopted by reference into this Code. The particular year or version of the 2015 International Property Maintenance Code adopted by the city will be the version that is recognized by this article and made a part thereof.

Ordinary maintenance means any work for which a building permit is not required by the city, where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a structure or any part thereof and to restore the same, as nearly as may be practical, to its condition prior to the occurrence of such deterioration, decay or damage, and does not involve change of materials nor of form.

Owner of record means the person, corporation or other legal entity listed as owner on the records of the county recorder of deeds.

Public improvement project means an action by the city or any of its departments or agencies involving major modification or replacement of streets, sidewalks, curbs, street lights, street or sidewalk furniture, landscaping, parking, or other portions of the public infrastructure servicing commercial, residential, recreational or industrial development; or any undertakings affecting city parks or city owned structures.

Removal means any relocation of a structure, object or artifact on its site or to another site.

Repair means any change that is not construction, alteration, demolition or removal and is necessary or useful for continuing normal maintenance and upkeep.

Secretary of the Interior's Standards. The Secretary of the Interior's Standards for the Treatment of Historic Properties are sets of treatment standards intended to assist users in making sound historic preservation decisions for the preservation, rehabilitation, restoration or reconstruction of historic properties. The standards are codified as 36 CFR 68 in the July 12, 1995, Federal Register (Vol. 60, No. 133).

Site means the traditional, documented or legendary location of an event, occurrence, action or structure significant in the life of a person, group, or tribe, or any place with evidence of past human activity. Sites include, but are not limited to, cemeteries, burial grounds, occupation and work areas, evidence of farming or hunting and gathering, battlefields, settlements, estates, gardens, groves, river crossings, routes and trails, caves, quarries, mines or significant trees or other plant life.

Stop-work order means an order directing an owner, occupant, contractor or subcontractor to halt an action for which a certificate of appropriateness is required, and notifying the owner, occupant, contractor or subcontractor of the application process for a certificate of appropriateness.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae and towers, and swimming pools.

Survey means the systematic gathering of information on the architectural, historic, scenic, and archaeological significance of buildings, sites, structures, areas, or landscapes, through visual assessment in the field and historical research for the purpose of identifying landmarks or districts worthy of preservation.
(Code 1989, § 2-191; Ord. No. 11857, § I, 2-23-2009)

Sec. 2-257. Kirksville Historic Preservation Commission.

(a) *Members.* The Kirksville Historic Preservation Commission (KHPC) shall consist of five members, residents of the city or the surrounding community, all of whom shall be appointed by the mayor. In addition, a member of the city council and of the P&Z shall be appointed to serve as members. The commission will then consist of seven total voting members. The council and zoning representatives shall vote but shall not hold office. All commission members must have a demonstrated interest, competence, or knowledge in historic preservation. To the extent available in the community, the KHPC shall include professional members representing such disciplines as architecture, architectural history, prehistoric and historic archaeology, planning, urban design, cultural geography, cultural anthropology, folklore, curation, conservation, landscape architecture, law, real estate brokerage, banking, history or other fields related to historic preservation, and residents of historic districts or potential historic districts.

(b) *Terms.* The terms of office of the members of the KHPC shall be for three years, excepting that the membership of the first KHPC appointed shall serve respectively for terms of two for one year; two for two years; and three for three years. The city council and planning and zoning

representatives will be annually. The city council member shall be appointed in April after the city council organization meeting. The KHPC shall hold at least four meetings per year and any member of the KHPC who fails to attend at least 50 percent of all meetings, regular and special, in any calendar year, shall thereby automatically vacate the membership.

(c) *Officers.* Officers shall consist of a chairperson and a vice-chairperson elected by the KHPC who shall each serve a term of one year and shall be eligible for re-election. The city council and P&Z representatives shall not be eligible for office. The chairperson shall preside over meetings. In the absence of the chairperson, the vice-chairperson shall perform the duties of the chairperson. If both are absent, a temporary chairperson shall be elected by those present. The city planner will be appointed as a city staff representative member of the commission, but without voting privileges. Other members of the city staff may also be appointed members, but without voting privileges. The secretary of the KHPC shall be appointed by the codes department of the city and shall have the following duties:

(1) Take minutes of each KHPC meeting;

(2) Be responsible for publication and distribution of copies of the minutes, reports, and decisions to the members of the KHPC;

(3) Give notice as provided herein by law for all public hearings conducted by the KHPC.

(d) *Duties of director.* The city planner shall have the following duties:

(1) Prepare agendas for all meetings of the KHPC, provide information on the agenda items, and give them to the secretary for timely mailings to members and to the media;

(2) Prepare reports and information on decisions made by the KHPC, and report same to the P&Z for their recommendations to the city council;

(3) Advise the city manager of vacancies on the KHPC and expiring terms of members; and

(4) Prepare reports and information on decisions made by the P&Z regarding KHPC actions to the city council on any matter requiring their consideration and decisions.

(e) *Meetings.* A quorum shall consist of four of the voting members. All decisions or actions of the KHPC shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. Meetings shall be held on the first Wednesday of each calendar quarter or at any time upon the call of the chairperson, but no less than once each quarter. Public notice of all meetings shall be posted in conformance with standard city policy and RSMo 610.020. No member of the KHPC shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No action shall be taken by the KHPC that could in any manner deprive or restrict the owner of property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at a public meeting of the KHPC, as provided herein. All meetings of the KHPC shall be open to the public except as allowed by state law. The KHPC shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be public record. All KHPC rules of procedure, designation criteria, design guidelines, and forms shall be available to the public at the office of the city clerk or on the city's website: www.kirksvillecity.com.

(f) *Funding.* The city council shall annually appropriate funds, within the budget limitations, for the operation of the KHPC. The KHPC may, with the consent of the city council, apply for, receive, or expend any federal, state or private grant, grant-in-aid, gift or bequest, in furtherance of the general purposes of this article.

(g) *Compensation.* The members of the KHPC shall serve without compensation but shall be reimbursed for expenses they incur while on commission business.

(h) *Powers and duties.* The KHPC shall have the following powers and duties:

(1) To adopt any of its own bylaws and procedural regulations, if needed, provided that such regulations are consistent with this article and the revised statutes of the state;

(2) To conduct an ongoing survey for the identification of historically, archaeologically and architecturally significant properties, structures, sites, and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, state or city; and to maintain the research information in an inventory accessible to the public (except for archaeological site locations, which shall be restricted);

(3) To investigate and recommend, with the consent of the owner, to the governing body the adoption of ordinances designating for protection properties or structures having special cultural, historic, archaeological, community or architectural value as landmarks;

(4) To investigate and recommend, with the consent of a majority of the owners, to the governing body the adoption of ordinances designating for protection areas having special cultural, historic, archaeological, community or architectural value as historic districts;

(5) To keep a register of all properties and structures which have been designated as landmarks or historic districts, including all information required for each designation;

(6) To confer recognition upon the owners of landmarks and property or structures within historic districts by means of certificates, plaques, or markers;

(7) To advise and assist owners of landmarks and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;

(8) To encourage the nomination of landmarks and historic districts to the Kirksville Historic Register, and to the National Register of Historic Places, and to review and comment on any nominations to the National Register of Historic Places;

(9) To inform and educate the citizens of the city concerning the historic, archaeological and architectural heritage of the city through publication or sponsorship of maps, newsletters, brochures, pamphlets, programs and seminars by the city, the KHPC, or other appropriate parties;

(10) To hold public hearings and to review applications for construction, alteration, removal or demolition affecting designated landmarks or structures within historic districts and issue or deny certificates of appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;

(11) To hold public meetings on each proposed nomination of a landmark and of a historic district and on the guidelines developed for each nomination;

(12) To request the building inspector to issue stop-work orders for any construction, alteration, removal or demolition undertaken without a certificate of appropriateness or to stop work that violates the conditions of a certificate;

(13) To review all applications for demolition permits for any commercial building, or any structure used as a residence, not to include trailer houses, within the corporate limits of the city, to determine impact to significant cultural resources (see section 2-267 for demolition procedures and process), or as contributing properties within a historic district;

(14) To consider applications for certificates of economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied;

(15) To develop specific design guidelines based on the Secretary of the Interior's Standards for Rehabilitation for the alteration, construction or removal of landmarks or property and structures within historic districts;

(16) To review proposed zoning amendments, applications for special use permits, or applications for zoning variances that affect proposed or designated landmarks or historic districts;

(17) To accept and administer on behalf of the city any property of historical significance that the city may have, or accept as a gift or otherwise, including full or partial interest in real property, including easements, upon approval by the city council;

(18) To accept and administer on behalf of the city, upon approval of the city council, such gifts, grants, and money as may be appropriate for the purposes of this article. Such money may be expended for publishing maps and brochures or for hiring staff persons or consultants or performing other functions for the purpose of carrying out the duties and powers of the KHPC and the purposes of this article;

(19) To call upon available city staff members as well as other experts for technical advice;

(20) To retain such specialists or consultants or to appoint such citizen advisory committees as may be required from time to time;

(21) To testify before all boards and commissions, including the P&Z, on any matter affecting historically, archaeologically, culturally and architecturally significant property, structures, sites and areas;

(22) To make recommendations to the city council concerning budgetary appropriations to further the general purposes of this article;

(23) To provide input into the development of a preservation component in the master plan of the city;

(24) To periodically review the city historic preservation zoning ordinance and to recommend to the P&Z and the city council any amendments appropriate for the protection and continued use of landmarks or property, sites and structures within historic districts; and

(25) To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this article.

(Code 1989, § 2-192; Ord. No. 11857, § II, 2-23-2009)

Sec. 2-258. Surveys and research.

The KHPC shall undertake an ongoing survey and research effort in the city to identify neighborhoods, areas, sites, structures, and objects that have historic, cultural, archaeological, architectural, or aesthetic importance, interest, or value, and shall maintain an inventory of that information. As part of the survey, the KHPC shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. The KHPC shall systematically identify potential landmarks and historic districts and encourage property owners to nominate them based upon the following criteria:

(1) The potential landmarks and historic districts are in one identifiable neighborhood or distinct geographical area of the city;

(2) The potential landmarks and historic districts are associated with a particular person, event, or historical period;

(3) The potential landmarks and historic districts are of a particular architectural

style or school, or of a particular architect, engineer, builder, designer, or craftsman;

(4) The potential landmarks and historic districts contain historic and prehistoric archaeological resources with the potential to contribute to the understanding of historic and prehistoric cultures;

(5) Such other criteria as may be adopted by the KHPC to ensure a systematic survey and possible nomination of all potential landmarks and historic districts within the city.

(Code 1989, § 2-193; Ord. No. 11857, § III, 2-23-2009)

Sec. 2-259. Nomination of landmarks and local historic districts.

(a) *Nomination of landmarks.* Nomination of landmarks shall be made to the KHPC in writing and may be submitted by the owner or any one of the owners of record of the nominated property or structure. Nominations shall be turned in to the city clerk, who will within 14 days of receipt send to the city planner who will add the nomination of the property to the next available agenda of the KHPC, after any required posting for a public meeting. Forms and criteria for nomination will be available at the office of the city clerk.

(b) *Nomination of local historic districts.* Nomination of a local historic district shall be made to the KHPC in writing and may be submitted by any one of the owners of any property or structure within the boundaries of the proposed local historic district. Nominations shall be turned in to the city clerk, who will within 14 days of receipt send to the city planner. The city planner will determine the ownership of all properties and sites within the boundaries of the proposed local historic district, based on the current county tax map parcels and listed ownership. Certified mailings will be sent out to all owners of the proposed local historic district explaining the proposed nomination that has been received and giving notice of the date, time, and place for a vote of the property owners on the proposed local historic district. When the vote has taken place and a tally of the votes has been completed, a majority of 66 percent of the designated lots voting must vote in favor of the nomination before it can move forward. If approved, the nomination of the local historic district will be added to the next available agenda of the KHPC, after any required posting for a public meeting. Forms and criteria for nomination will be available at the office of the city clerk. The rules and procedures for voting on a local historic district are as follows:

(1) Each county tax map parcel in the proposed local historic district will be allowed one vote, regardless of the number of owners of the parcel.

(2) If a tax map parcel has more than one owner, all such living owners must unanimously cast their vote and sign the voting ballot in order for it to be counted.

(3) If the tax map parcel is recorded as being owned by a trust, a limited liability corporation (LLC), or by a corporation, the voting ballot will be mailed to the trustee, president, chief executive officer (CEO), chief operating officer (COO), or secretary of the trust, corporation, or LLC. The trustee, president, CEO, or COO will have the authority to vote for the trust, corporation, or LLC with only their one signature, indicating their authorized title or status as trustee.

(4) The paper voting ballot will be sent by certified mailings to the address of record of affected property owners.

(5) At least 30 days' time will be allowed after mailing, for receipt of the letters, for the owners to contact others for signatures, and for the ballots to be received by the city clerk. All votes must be in the possession of the city clerk by the time and date indicated on the ballot for the ballot to be counted.

(6) Votes may be submitted to the city clerk any time after receipt, until the stated time and date when all votes are required to be in possession of the city clerk.

(7) The city clerk and the city planner will be jointly responsible for counting the

votes and for certifying the results to the KHPC. The counting of the votes will be open to the public.

(8) The city clerk and city planner may delay declaring the results of the vote for clarification of specific ballot signatures, titles, handwriting issues, etc., to ensure those ballots are being counted as intended by the person voting.

(9) For a vote to successfully pass the nomination on to the KHPC for consideration as a local historic district, a minimum of 66 percent of votes being cast in favor of the measure is necessary. The results of the voting will be determined only by the parcels/property owners who actually cast their votes.

(10) For any property in a proposed local historic district that is owned by the city, the mayor must sign the voting ballot as authorized by the city council.

(11) For any property in a proposed local historic district that is owned by the local school district, the school board president must sign the voting ballot as authorized by the school board.

(12) For any property in a proposed local historic district that is owned by the county, the presiding commissioner must sign the voting ballot as authorized by the county commission.

(13) For any property in a proposed local historic district that is owned by Truman State University, the president of the university must sign the voting ballot as authorized by its board.

(c) *Criteria for consideration of nomination.*

(1) The KHPC shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, structure, site, area or district meets one or more of the following criteria, based on criteria for evaluation for the National Register of Historic Places:

a. Its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state or country;

b. Its overall setting and harmony as a collection of buildings, structures, and objects where the overall collection forms a unit;

c. Its potential to be returned to an accurate historic appearance regardless of alterations or insensitive treatment that can be demonstrated to be reversible;

d. Its location as a site of a significant local, county, state, or national event;

e. Its identification with a person who significantly contributed to the development of the community, county, state, or country;

f. Its embodiment of distinguishing characteristics of an architectural type valuable for the study of a period, type, method of construction, or use of indigenous materials;

g. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state, or country;

h. Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

i. Its embodiment of design elements that make it structurally or architecturally innovative;

j. Its unique location or singular physical characteristic that make it an established or familiar visual feature of the neighborhood, community, or city;

k. Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to, farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

l. Its suitability for preservation or restoration; and

m. Its potential to yield information important to history and prehistory.

(2) Any structure, property, or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration.

(d) *Action by the KHPC.*

(1) *Public meeting on historic landmarks and districts.* Upon receipt of a completed nomination of a landmark or historic district, the KHPC shall include the nomination on the agenda of the next scheduled public meeting to solicit input and comment on the proposed nomination and guidelines for certificate of appropriateness.

(2) *Determination by the KHPC.* The KHPC shall make a determination upon the evidence whether the nominated landmark or historic district does or does not meet the criteria for designation. Such a determination shall be made upon a motion and vote of the KHPC and shall be accompanied by a recommendation and report to the P&Z stating the findings of the KHPC concerning the relationship between the criteria for designation in this section and the nominated landmark or historic district and all other information required by this section.

(3) *Recommendations and report to the P&Z.*

a. The KHPC shall, within 120 days from receipt of a completed nomination in proper form, submit a recommendation and report to the P&Z indicating whether or not the nominated landmark or historic district meets the criteria for designation in this section. The recommendation shall be accompanied with a report to the P&Z containing the following information:

1. Explanation of the significance or lack of significance of the nominated landmark or historic district as it relates to the criteria for designation;

2. Explanation of the integrity or lack of integrity of the nominated landmark or historic district.

b. In the case of a nominated landmark found to meet the criteria for designation:

1. The significant exterior architectural features of the nominated landmark that should be protected;

2. The types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit, that should be reviewed for appropriateness pursuant to the provisions of this section through section 2-264;

3. Archaeological significance and recommendations for interpretation and protection.

c. In the case of a nominated historic district found to meet the criteria for designation:

1. The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;

2. The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of this section through section 2-264;

3. The type and significance of historic and prehistoric archaeological sites within the nominated historic district;
4. Proposals for design guidelines of KHPC review of certificates of appropriateness within the nominated landmark or historic district;
5. The relationship of the nominated landmark or historic district to the ongoing effort of the KHPC to identify and nominate all potential cultural resources that meet the criteria for designation;
6. Recommendations as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, lot size, and parking regulations necessary or appropriate to the preservation of the nominated landmark or historic district, including recommendations for buffer zones to protect and preserve visual integrity;
7. A map showing the location of the nominated landmark and/or the boundaries of the nominated historic district.

(e) *Action by P&Z.*

(1) *Public hearing on landmarks and districts.* The P&Z shall schedule and hold a public hearing on the nomination following receipt of a report and recommendation from the KHPC that a nominated landmark or historic district does or does not meet the criteria for designation. The meeting shall be scheduled, held, and conducted in the same manner as other meetings to consider applications for zoning map amendments or ordinance amendments, except that notification of adjacent landowners within 185 feet of the proposed property does not have to be performed. This notification is not required, because a property designated as historic retains its current zoning district requirements as to use of property, setbacks, parking, and other requirements. The historic zoning designation is overlaid on the current zoning district. Notice of the date, time, place and purpose of the meeting and a copy of the completed nomination form shall be sent by regular mail to the owner of record and to the nominators.

(2) *Testimony to be taken at hearing.* Oral or written testimony concerning the significance of the nominated landmark or historic district shall be taken at the public hearing from any person concerning the nomination. The KHPC may present expert testimony or present its own evidence regarding the compliance of the nominated landmark or historic district with the criteria for consideration of a nomination set forth in this section.

(3) *Determination by P&Z.* Within a reasonable period of time following the close of the public hearing, the P&Z shall make a determination upon the evidence whether the nominated landmark or historic district does or does not meet the criteria for designation. Such a determination shall be made upon a motion and vote of the P&Z and shall be accompanied by a recommendation and report to the city council stating the findings of the P&Z concerning the relationship between the criteria for designation in this section and the nominated landmark or historic district and all other information required by this section.

(4) *Recommendation and report to the city council.* The P&Z shall, within 30 days from a determination and vote on a nominated historic landmark or district, submit a recommendation and report to the city council indicating whether or not the nominated landmark or historic district meets the criteria for designation in this section. The P&Z's recommenda-

tion and report should consider and incorporate the recommendation and report originating from the KHPC.

(5) *Notification of determination.* Notice of the determination of the P&Z, including a copy of the report, shall be sent by regular mail to the owner of record of a nominated landmark and of all property within a nominated historic district and to the nominator within 14 days following a vote from the P&Z.

(6) *Appeal.* A determination by the P&Z that the nominated landmark or historic district does not meet the criteria for designation shall be a final administrative decision reviewable under the Missouri Administrative Procedure and Review Act; provided, however, that the nominator or any owner of the nominated landmark or of property within the nominated historic district, may within 30 days after the postmarked date of the notice of the determination file with the city clerk a written appeal to the city council.

(f) *Action by city council.*

(1) *Decision of city council; written notice.* Within 90 calendar days after receiving the recommendation and report of the P&Z, the city council shall either reject the recommendation or written appeal or designate the landmark or historic district by an ordinance. The city planner shall provide written notification of the action of the city council by regular mail to the nominator, the appellant, and the owners of record of the nominated landmark or of all property within a nominated historic district. The notice shall include a copy of the designation ordinance if passed by the city council and shall be sent within 14 days of the city council action. A copy of each designation ordinance shall be sent to the members of the KHPC, the P&Z, and to the city planner.

(2) *The designation ordinance.* Upon designation, the landmark or historic district shall be classified as H, Historic, and the designating ordinance shall prescribe the significant features; the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses; special uses; height and area regulation; minimum dwelling size; floor area; lot size; sign regulation; and parking regulations. The official zoning map of the city shall be amended to show the location of the H, Historic zoning district as an overlay zone. The designating ordinance should also indicate the underlying, current zoning district that the property would remain in compliance with, subject to any future changes in zoning designation.

(3) *Amendment and rescission of designation.* The designation of a landmark or historic district may be amended or rescinded upon petition to the KHPC and compliance with the same procedure and according to the same criteria set forth herein for designation.

(Code 1989, § 2-194; Ord. No. 11857, § IV, 2-23-2009; Ord. No. 11934, 9-20-2010)

Sec. 2-260. Applications for certificates of appropriateness.

(a) *Certificate of appropriateness; when required.*

(1) A certificate of appropriateness shall be required before the following actions affecting the significance of any landmark or any structure within a historic district may be undertaken:

a. Any construction, alteration, or removals requiring a building permit from the city;

b. Any demolition in whole or in part requiring a demolition permit from the city;

c. Any construction, alteration, demolition, or removal affecting a significant exterior architectural

feature or appearance as specified in the ordinance designating the landmark or historic district;

d. Any construction, alteration, or removal involving earth-disturbing activities that might affect archaeological resources;

e. Any actions to correct a violation of a minimum maintenance standard.

(2) Applications for a certificate of appropriateness shall include accompanying plans and specifications affecting the significance of a designated landmark or of a property within a designated historic district; and applications for demolition permits shall include plans and specifications for the contemplated use of the property. Applications for building and demolition permits shall be forwarded by the code enforcement director to the KHPC within 30 days following receipt of the application. A building or demolition permit shall not be issued until a certificate of appropriateness has been issued by the KHPC. Any applicant may request a meeting with the KHPC before the application is reviewed by the KHPC or during the review of the application. Application for review of construction, alteration, demolition, or removal not requiring a building permit for which a certificate of appropriateness is required shall be made on a form prepared by the KHPC and available at the office of the city clerk. The KHPC shall consider the completed application at its next regular meeting.

(b) *Stop-work order.* Whenever the KHPC has reason to believe that an action for which a certificate of appropriateness is required has been initiated, or is about to be initiated, or that a violation of the conditions of a permit has occurred, it shall request that the codes department of the city make every reasonable effort to contact the owners, occupants, contractor or subcontractor and inform them of proper procedures. If the KHPC or the codes department determines that a stop-work order is necessary to halt an action, they shall send a copy of the stop-work order by certified mail return receipt requested to the owners, occupants, contractors and subcontractors, and notify them of the process of applying for a certificate of appropriateness. A copy of the proper application form shall be included in the notice. If necessary, a second or subsequent stop-work order may be issued for the same project.
(Code 1989, § 2-195; Ord. No. 11857, § V, 2-23-2009)

Sec. 2-261. Determination by the KHPC.

(a) *Timeline of a certificate of appropriateness.* The KHPC shall review the application for a building or demolition permit or for a certificate of appropriateness and issue or deny the permit within 60 days of receipt of the application. Written notice of the approval or denial of the application for a certificate of appropriateness shall be provided to the applicant and the city planner within 14 days following the determination and shall be accompanied by a certificate of appropriateness in the case of an approval.

(b) *Voiding a certificate of appropriateness.* A certificate of appropriateness shall become void unless construction is commenced within six months of the date of issuance. Certificates of appropriateness shall be issued for a period of 18 months and are renewable. If the project is not completed according to the guidelines provided in the certificate of appropriateness, the project shall be deemed in violation of this article.

(c) *Denial of a certificate of appropriateness.* A denial of a certificate of appropriateness shall be accompanied by a statement of the reasons for the denial. The KHPC shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the KHPC to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the KHPC. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendation of the KHPC.
(Code 1989, § 2-196; Ord. No. 11857, § VI, 2-23-2009)

Sec. 2-262. Review of public improvement and land acquisition projects.

Public improvement and land acquisition projects by the city or any of its departments or agencies shall be reviewed by the KHPC in the following manner:

(1) The KHPC shall review and comment upon any public improvement project proposed by the city or any of its agencies or departments within any historic district, on the site of or within 200 feet of any landmarks, or within 200 feet of any boundary of a historic district. The city engineer shall send a completed preliminary design for a public improvement project to the KHPC simultaneously with its submission to the city council for approval. The KHPC shall have at least 30 days to complete its review and report to the city council, except when the city engineer, if necessary to accelerate the design review process, may specify a time less than 30 days within which the KHPC shall complete its review and report to the council.

(2) The KHPC shall review and comment upon any proposed acquisition of a landmark or of land or buildings within a historic district by the city or any of its agencies or departments. The city staff shall, at the earliest possible date that will not interfere with acquisition negotiations, send the KHPC information concerning the location, size, purchase price, current use, and proposed use of the land or building to be acquired, and specify the date by which the KHPC shall report to the city council.

(3) The KHPC shall review the public improvement or land acquisition projects to determine its effect upon the historic, archaeological or architectural character of the landmark or historic district and report to the city council within any time specified by the city council or planning department but not to exceed 45 days. The report by the KHPC shall include any recommendations for changes to the preliminary design or land acquisition that will lessen or alleviate any adverse effect of the proposed project upon the historic, archaeological, or architectural character of the landmark or historic district. The city council shall take no final action on the preliminary design or land acquisition until it has received and reviewed the report of the KHPC.

(Code 1989, § 2-197; Ord. No. 11857, § VII, 2-23-2009)

Sec. 2-263. Standards for review.

In considering an application for a building or demolition permit or for a certificate of appropriateness, the KHPC shall be guided in principal by the Secretary of the Interior's Standards, as follows, in addition to any design guidelines in the ordinance designating the landmark or historic district. Applications, standards for review and design guidelines shall be available in the office of the city clerk for distribution to the public.

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterizes a historic property shall be preserved.

(6) Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(Code 1989, § 2-198; Ord. No. 11857, § VIII, 2-23-2009)

Sec. 2-264. Design guidelines.

Design guidelines for applying the criteria for review of certificates of appropriateness shall, at a minimum, consider the following architectural criteria:

(1) *Height.* The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district.

(2) *Proportions of windows and doors.* The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark and with surrounding structures within a historic district.

(3) *Relationship of building masses and spaces.* The set back and relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.

(4) *Roof shape.* The design of the roof should be compatible with the architectural style and character of the landmark, and with surrounding structures in a historic district.

(5) *Landscaping.* Landscaping should be compatible with the architectural character and appearance of the landmark and/or surrounding structures and landscapes in historic districts.

(6) *Scale.* The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a historic district.

(7) *Directional expression.* Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a landmark after altera-

tion, construction, or partial demolition should be compatible with its original architectural style and character.

(8) *Architectural details.* Architectural details, including materials, colors, and textures, should be treated so as to make a landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of a landmark or historic district.

(9) *Signage.* The character of signs should be in keeping with the historic architectural character of a landmark or historic district. Character of a sign includes the number, size, area, scale, location, type, (e.g., off-site advertising signs and on-site business signs), letter size or style, and intensity and type of illumination.

(10) *Minimum maintenance.* Significant features should be kept in a condition of good repair and maintenance. All structural and mechanical systems should be maintained in a condition and state of repair that will prevent decay, deterioration or damage to significant features, or otherwise adversely affect the historic or architectural character of structures within a historic district.

(Code 1989, § 2-199; Ord. No. 11857, § IX, 2-23-2009)

Sec. 2-265. Certificate of economic hardship.

Application for a certificate of economic hardship shall be made on a form prepared by the KHPC only after a certificate of appropriateness has been denied. The KHPC shall schedule a public hearing concerning the application and provide public notice and individual notice to the applicant, owners of record, and owners adjacent to the property in the same manner as in section 2-259, and any person may testify at the hearing concerning economic hardship. All testimony, objections thereto and rulings at such public hearing shall be taken down by a reporter employed by the city for that purpose, or, if electronic tape recording equipment is available, by such electronic means. The KHPC may solicit expert testimony or require that the applicant for a certificate for economic hardship make submissions concerning any or all of the following information before it makes a determination on the application:

(1) Estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the KHPC for changes necessary for the issuance of a certificate of appropriateness;

(2) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

(3) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the KHPC, and, in the case of a proposed demolition, after renovation of the existing property for continued use;

(4) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure.

(Code 1989, § 2-200; Ord. No. 11857, § X, 2-23-2009)

Sec. 2-266. Maintenance of historic properties.

(a) Ordinary maintenance exclusion. Nothing in the section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure described in section 2-259.

(b) The term "ordinary maintenance" means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay

of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

(c) Minimum maintenance requirement. All buildings and structures designated by city ordinance as H, Historic shall be preserved against decay and deterioration and free from certain structural defects in the following manner. The owner thereof or such other person who may have the legal custody and control thereof shall repair such building if it is found to have any of the following defects:

(1) The deterioration of exterior walls or other vertical supports;

(2) The deterioration of roofs or other horizontal members;

(3) The deterioration of external chimneys;

(4) The deterioration or crumbling of plasters or mortar;

(5) The deterioration or ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;

(6) The peeling of paint, rotting, holes, and other forms of decay;

(7) The lack of maintenance of surrounding environment (e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping);

(8) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition.

(d) If minimum maintenance is not being maintained, the owner of the property or other person having legal custody thereof shall be notified by an inspector from the codes department. The notice shall be by certified mail or first-class mail and shall specify each item in the property or landmark that fails to meet minimum maintenance requirements. The owner or other person having legal custody of the property shall be given a due date with a reasonable amount of time to comply with the minimum maintenance requirements. The city planner or designated building inspector may extend the due date for good cause. If after the original time period or any extension granted by the building inspector the owner or person having legal custody of the property should fail to meet the minimum maintenance requirements, the owner or person having legal custody of the property shall be in violation of this section and punished in accordance with section 2-271.
(Code 1989, § 2-201; Ord. No. 11857, § XI, 2-23-2009)

Sec. 2-267. Review of applications for demolition of structures.

Applications for demolition of existing structures designated as a landmark or part of a historic district must be approved by a majority vote of the KHPC, in regular or special session, with a certificate of appropriateness.
(Code 1989, § 2-202; Ord. No. 11857, § XII, 2-23-2009; Ord. No. 11938, 10-4-2010; Ord. No. 12149, § 1, 3-16-2015)

Sec. 2-268. Review of applications for zoning amendments, special use permits and variances.

Applications for zoning amendments, special use permits, or variances for a landmark or structures within a historic district shall be referred to the KHPC by the city planner at least ten days prior to the date of the public hearing set by the P&Z or the city council. The KHPC may review these applications using any format which it deems appropriate; provided, however, that the applicant shall be notified of the time and place of such review and shall be given the opportunity to appear and be heard. Prior to the public hearing, the KHPC shall forward its comments to the city planner for presentation to the P&Z or to the city council for its consideration in reviewing the application.
(Code 1989, § 2-203; Ord. No. 11857, § XIII, 2-23-2009)

Sec. 2-269. Appeals.

If the KHPC denies an application for a certificate of appropriateness, the KHPC shall work with the applicant to arrive at a mutually satisfactory alternative to the proposed activi-

ties. If agreement cannot be reached within six months, the applicant may file with the code enforcement director a written appeal to the city council. In acting upon the appeal, the board may grant a variance from the strict interpretation of this article when such will not materially affect the health or safety of the applicant and general public.
(Code 1989, § 2-204; Ord. No. 11857, § XIV, 2-23-2009)

Sec. 2-270. Public safety exclusion.

None of the provisions of this article shall be construed to prevent any measures of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any structure, other feature or part thereof, where such condition has been declared unsafe or dangerous by the building inspector, and where the proposed measures have been declared necessary, by such departments, to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire or other calamity, or by act of God or by the public enemy, to such an extent that, in the opinion of the aforesaid departments, it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.
(Code 1989, § 2-205; Ord. No. 11857, § XV, 2-23-2009)

Sec. 2-271. Fees and penalties.

(a) The board shall establish an appropriate system of processing fees for the review of nominations and certificates of appropriateness.

(b) There is currently no designated fee for a certificate of appropriateness.

(c) There is currently no designated fee for the nomination of a landmark or for a historic district.

(d) It shall be unlawful for any person to undertake or cause an alteration, construction, demolition or removal of any nominated or designated landmark or structure within a nominated or designated historic district without a certificate of appropriateness.

(e) It shall be unlawful to not maintain designated landmarks or structures within designated historic districts within the minimum maintenance requirements of section 2-266.

(f) Any person convicted of violating the provisions of this article shall be punished according to section 1-8.
(Code 1989, § 2-206; Ord. No. 11857, § XVI, 2-23-2009)

Secs. 2-272—2-290. Reserved.

ARTICLE XI. CITY PROPERTY

Sec. 2-291. Sale of digital format data.

The city has information available in a digital data format from the geographic information system about the city's road system, water system, sewer system, storm sewer system, and other information. This information could be utilized by others. The city council has authorized the sale of this proprietary information in return for a fee.
(Code 1989, § 14-291; Ord. No. 11815, § 1, 11-20-2007)

Sec. 2-292. City manager; authority.

The final approval for the sale of this city digital format information is vested with the city manager.
(Code 1989, § 14-292; Ord. No. 11815, § 2, 11-20-2007)

Sec. 2-293. Data license agreement.

When the sale of digital format data is approved by the city manager, a data license agreement form shall be necessary to protect the interests and proprietary information that is sold. This agreement is as follows in article XI of this chapter.
(Code 1989, § 14-295; Ord. No. 11815, § 6, 11-20-2007)

Secs. 2-294—2-319. Reserved.

ARTICLE XII. GEOGRAPHIC INFORMATION SYSTEMS (GIS)

Sec. 2-320. Agreement.

DATA LICENSE AGREEMENT

FOR ENTITIES REQUESTING ACCESS TO GIS AND RELATED DATA

CREATED AND MANAGED BY THE CITY OF KIRKSVILLE, MISSOURI

This Agreement is made and entered into this ____ day of _____/_____/_____, 20____, by and between the City of Kirksville, Missouri ("City"), and _____ [Name of Party Receiving Information], (Licensee"). In consideration of the mutual promises and covenants contained in this Agreement, the City and Licensee expressly agree that:

1. *Authority.* This Agreement is made pursuant to the authority granted the City by RSMo 67.1850. It is implemented pursuant to the direction of the Code of Ordinances of the City of Kirksville.

2. *Grant of License.* The City grants to Licensee and Licensee hereby accepts, upon the express terms and conditions contained in this Agreement, a non-exclusive license to use the information described herein in the form produced and maintained by the Geographic Information System produced and maintained by the City.

3. *Licensed Materials.* The materials licensed for use by Licensee under this Agreement are the forms which can be read or manipulated by computer of the geographical and physical characteristic information collected and assimilated in the records of the City ("Licensed Materials").

4. *Use.* Subject to the terms, conditions and prohibitions of this Agreement, Licensee shall be entitled to use the information contained in the licensed materials solely for its business.

5. *Transfer.* The License is expressly nontransferable and Licensee shall not transfer any interest, entitlement or obligation under this Agreement to any other person or entity. The Licensed Materials may not be distributed or disclosed to any other party for that party's use without the written permission of the City.

6. *Data.* The data and information contained in the Licensed Materials shall be those files and systems as recorded and existing as of the time Licensee requests the information. The City is under no obligation to provide maintenance of the Licensed Materials, and will not be responsible for providing maintenance or for informing Licensee that maintenance has been performed on the GIS, or that the information provided has been updated or in any fashion changed.

7. *Title.* The custody and title and all other rights and interests in the Licensed Materials are and shall at all times remain with the City of Kirksville and with the offices or officials of the City of Kirksville having official custody of the Licensed Materials.

8. *Not Public Records.* The database in the form of the Licensed Materials is proprietary, intellectual property of the City of Kirksville ("City") and shall not be considered or deemed as open, public records, except as provided in RSMo 67.1850. Licensee shall, and hereby expressly agrees, that it will recognize the property interests of the City and the City agrees that it is not, pursuant to this License Agreement, a custodian of any open, public records, except as may exist pursuant to RSMo 67.1850.

9. *Costs.* Licensee shall pay to the City fees for access to and use of the Licensed Materials in accordance with the Schedule of Fees specified in the Code of Ordinances.

10. *Release and Indemnification.* Licensee expressly releases and agrees to hold the City harmless from any and all claims or

damages arising out of the use of the data or information, the accuracy of the data or information, or any reliance on the data or information. Licensee expressly agrees that it does assume all risk for use and reliance on the data and information. Licensee shall indemnify and hold harmless the City from and against all costs, liability, expenses, claims or other charges, including reasonable attorney fees, arising out of or in connection with Licensee's use of the licensed material.

11. *Disclaimer of Accuracy and Warranties.* Licensee shall and hereby does knowingly accept the data and information "as-is," and the City expressly disclaims any representation or warranty to the completeness or accuracy of the data or information. Further, the City expressly disclaims any representation or warranty as to the suitability of the data or information for any use intended by Licensee. Licensee recognizes that the City shall not be liable for any damages that may arise from any error that may exist in the information or the geographical information system.
12. *Waiver.* The waiver of any breach of any provision on this License Agreement shall not constitute a waiver of any subsequent breach of the same or other provisions.
13. *Modifications.* Any modification of this Agreement shall be in writing executed by each party.
14. *Entire Agreement.* This Agreement contained the entire understanding between the parties and supersedes all prior agreements or understandings between the parties.
15. *Law.* This Agreement is made in and shall be governed by the laws of the State of Missouri and the City of Kirksville, Missouri.

This Agreement is made as of the date first above written by:

_____ [Name of Party Receiving Information] _____

_____ _____

Title Company or Entity

CITY OF KIRKSVILLE, MISSOURI

APPROVED:

_____ _____

Kirksville City Manager Date

(Code 1989, § 14-295; Ord. No. 11815, § 5, 11-20-2007; Ord. No. 11951, § 2, 2-7-2011)

Sec. 2-321. Fees.

The specific fees for the purchase of digital format data are as established in the city's fee schedule.

(Code 1989, § 14-296; Ord. No. 11815, § 6, 11-20-2007)

Sec. 2-322. Waiver of fees.

The city manager has the authority to void and waive fees related to the sale of digital format data, when there is a need for the transfer of information to another governmental or quasi-governmental entity. A data license agreement shall still be required.

(Code 1989, § 14-297; Ord. No. 11815, § 7, 11-20-2007)

Secs. 2-323—2-347. Reserved.

ARTICLE XIII. MUNICIPAL ORDINANCE VIOLATIONS

Sec. 2-348. Court operations.

All city municipal ordinance violations shall be heard by the Adair County associate circuit judge at the county courthouse. The clerk of the court shall be the clerk of the circuit court of the county or any deputy clerk designated by the clerk of the circuit court of the county for cases involving the prosecution of city municipal ordinance violations.

(Ord. No. 12310, § 2(1), 2-4-2019; Ord. No. 12326, § 1(16-1), 4-15-2019)

Sec. 2-349. Court costs.

(a) Whenever any person is convicted or pleads guilty or is found guilty of violating any ordinance of the city in the associate division, such person shall be ordered to pay the following costs:

(1) *Court cost.* In every case where there is a conviction or a plea or finding of guilty, the clerk fee shall be the sum of $15.00 and shall be payable with 80 percent to the state department of revenue and 20 percent to the county treasurer. (RSMo 479.260(2))

(2) *Statewide court automation system.* Seven dollars shall be assessed and payable to the state statewide court automation fund for the funding of the city participation in the statewide court automation system. (RSMo 488.012.3(5) and 488.027.2))

(3) *Law enforcement training fund.* Two dollars shall be assessed and payable to the treasury of the city for the funding of law enforcement training fund. (RSMo 488.5336)

(4) *Crime victim compensation fund surcharge.* Seven dollars and fifty cents shall be assessed and payable to the state department of revenue and to the treasury of the city for the crime victim compensation fund. (RSMo 595.045)

(5) *Sheriff's retirement fund.* Three dollars surcharge shall be assessed and payable to the state sheriff's retirement system for the sheriff's retirement fund. (RSMo 488.024)

(6) *Peace officer standards and training fund.* One dollar shall be assessed and payable to the state department of public safety for the peace officers standards and training fund. (RSMo 488.5336)

(7) *Judicial education fund.* One dollar shall be assessed and payable to the treasury of the city with 50 percent for the judicial education fund and 50 percent for the appointed counsel fund. (RSMo 49.260(1))

(b) All such costs shall be assessed against the defendant except when by law court costs may not be assessed or unless the court costs are waived pursuant to law by the Adair County associate circuit judge, and shall be collected by the clerk of the circuit court of the county. The costs so collected shall be paid as provided by statute and supreme court operating rules.
(Ord. No. 12310, § 2(3), 2-4-2019; Ord. No. 12326, § 1(16-2), 4-15-2019)

Sec. 2-350. Police training fund.

(a) There is assessed as costs the sum established by ordinance in each court proceeding in the associate division for the violation of any ordinance of the city, except for violations of nonmoving traffic violations, for the training of city police officer.

(b) It shall be the duty of the clerk of the circuit court of the county to collect the court costs in such cases. The costs shall be transmitted monthly as provided by statute to the treasury of the city.

(c) The funds collected by virtue of this section shall be used by the city to pay for the training of city police officers.
(Ord. No. 12310, § 2(4), 2-4-2019; Ord. No. 12326, § 1(16-3), 4-15-2019)

Sec. 2-351. Crime victim's compensation fund.

(a) A fee as provided in the city's fee schedule, or such fee as may be hereafter authorized by state statute, shall be assessed as costs in each court proceeding in the associate division, as required by RSMo 595.045.1, except no such fee shall be collected for any nonmoving traffic violations, except weight limit and safety laws. No such fee shall be collected where the proceedings or defendant has been dismissed, or where costs are paid by the state, county or municipality on behalf of an indigent defendant.

(b) The monies collected by the clerk shall be paid at least monthly, as follows:

(1) Ninety-five percent shall be paid to the director of revenue of the state; and

(2) Five percent shall be paid into the city treasury.

(Ord. No. 12310, § 2(5), 2-4-2019; Ord. No. 12326, § 1(16-4), 4-15-2019)

Sec. 2-352. Probation and restitution.

The Adair County associate circuit judge is authorized to place persons who plead guilty or are found guilty of ordinance violations on court supervised probation for a period of up to two years. The judge may also impose any general or special conditions as are permitted by law and in the discretion of the judge. The judge may also order that a defendant make restitution to the victim.

(Ord. No. 12310, § 2(6), 2-4-2019; Ord. No. 12326, § 1(16-5), 4-15-2019)

Chapter 3

RESERVED

Chapter 4

AIRPORTS

Article I. In General

Secs. 4-1—4-18. Reserved.

Article II. Kirksville Regional Airport

Division 1. Generally

Division 2. Administration

Division 3. Commercial Use Regulations

ARTICLE I. IN GENERAL

Secs. 4-1—4-18. Reserved.

ARTICLE II. KIRKSVILLE REGIONAL AIRPORT

DIVISION 1. GENERALLY

Sec. 4-19. Name.

The municipal airport shall be known as the "Kirksville Regional Airport."
(Code 1974, § 14-1; Code 1989, § 3-16)

Sec. 4-20. Adoption of rules and regulations.

(a) The city council hereby adopts the Airport Certification Manual, updated annually, for the rules and regulations for the operation of the Kirksville Regional Airport. The Airport Certification Manual is established in accordance with 14 CFR 139 requirements.

(b) The amendments to the Airport Certification Manual, and subsequent amendments made thereto, are hereby adopted, approved and made a part of such Airport Certification Manual.

(c) The Airport Certification Manual is updated, reviewed, and approved by the Federal Aviation Administration (FAA) annually.
(Code 1974, § 14-2; Code 1989, § 3-17; Ord. No. 11880, § 1, 7-20-2009)

Sec. 4-21. Use of pesticides.

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

Pesticide means:

(1) Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; or

(2) Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

Restricted use pesticide means any pesticide which, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with widespread and commonly recognized practice, the director of the department of agriculture of the state has determined may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator.

Use and *using* mean the mixing, applying, storing or disposing of a pesticide or the filling of a container affixed to an aircraft with pesticide.

(b) No person other than one licensed by the state pursuant to the Missouri Pesticide Use Act (RSMo 281.010 to 281.115) shall use any restricted use pesticide or any container containing a restricted use pesticide upon the confines of the Kirksville Regional Airport.

(c) Any person using a restricted use pesticide upon the confines of the Kirksville Regional Airport shall first furnish to the city evidence of financial responsibility consisting of either a surety bond or a liability insurance policy protecting persons who may suffer legal damages as a result of the operations of the person using restricted use pesticides. The amount of the bond or insurance shall be set at the current limits established by the city's risk management policy for property damage and bodily injury, each separately and for each occurrence. This bond or insurance shall include coverage for any loss or damage arising from the use of any pesticide.

(d) It shall be unlawful for any person to knowingly cause any restricted use pesticide to come in contact with any portion of the runway, flight service area or terminal area or any other portion or part of the grounds of the Kirksville Regional Airport.

(e) It shall be unlawful for any person to wash any airplane with a container affixed thereto containing a restricted use pesticide, or to rinse or clean the tanks or other container affixed to

any airplane containing a restricted use pesticide, while the aircraft is located within the confines of the Kirksville Regional Airport.

(f) No person on any day shall possess, store or otherwise use a container containing a restricted use pesticide or residue, unless affixed to an aircraft, within the confines of the Kirksville Regional Airport between the hours of 10:30 p.m. and 4:00 a.m.

(g) Any person who shall violate any provision of this section shall be guilty of an ordinance violation.
(Code 1989, § 3-18; Ord. No. 10410, §§ 1—9, 5-6-1980; Ord. No. 11880, § 2, 7-20-2009)

Secs. 4-22—4-45. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 4-46. Airport director; office created; appointment.

The office of city airport director is hereby created and established. The city airport director shall be appointed by the city manager, in accordance with RSMo 78.610. The city airport director shall supervise the operations of all aircraft to, from and on, the municipally owned airport in conformity with the rules and regulations of the Federal Aviation Administration and the laws of the state and the laws of the United States and rules and regulations promulgated under the authority thereof to be enforced, and to this end shall, if need be, call upon officers and officials thereof for assistance.
(Code 1989, § 3-26; Ord. No. 10016, § 1, 6-4-1973; Ord. No. 11880, § 3, 7-20-2009; Ord. No. 12096, § 1, 1-6-2014)

Sec. 4-47. Airport fund established.

There is hereby established a fund to be known as the airport fund, which shall be credited with all funds from whatever source derived which are designated for the purpose of improving the municipally owned airport.
(Code 1989, § 3-28; Ord. No. 10016, § 11, 6-4-1973; Ord. No. 11880, § 4, 7-20-2009)

Secs. 4-48—4-67. Reserved.

DIVISION 3. COMMERCIAL USE REGULATIONS

Sec. 4-68. Authority of city use of airport and facilities.

The city shall, at all times, maintain full control of the municipally owned airport and of the physical equipment of the city at the airport, and shall make no lease or contract to any person, including the United States government, which will impair in any way the city's control of such airport and its facilities, or any exclusive use agreement which may be contrary to the Federal Aviation Act, or any amendment thereto.
(Code 1989, § 3-36; Ord. No. 10016, § 3, 6-4-1973)

Sec. 4-69. Requirements for commercial use generally.

No person shall do any of the following acts as a commercial enterprise at any municipally owned airport, without first making written application for and obtaining the consent and permission of the city council, and the payment of the fees established in the city's fee schedule:

(1) Repair and service of aircraft.

(2) Store and handle aircraft.

(3) Sell at retail aircraft parts and accessories.

(4) Sell at retail new, used or reconditioned aircraft.

(5) Sell at wholesale aircraft or aircraft parts or accessories.

(6) Operate a concession, vending machine, automobile rental agency, transport freight, mail or other articles, or other commercial enterprise of any sort or character.

(7) Offer or provide passenger flight, air taxi service, rental, charter, aircraft pilot instruction.

(8) Operate a schedule commercial airline service.

(Code 1989, § 3-37; Ord. No. 10016, § 4, 6-4-1973)

Sec. 4-70. Qualifications, application and agreement.

(a) *Application and qualifications.* Any person, firm or corporation desiring to provide any or all of the commercial uses described in this division at the municipally owned airport shall make an application in writing to the city council, on a form prescribed by the city manager, stating that the person, firm or corporation is able, or will be able, within 90 days after the date on which the city council may grant its permission and consent, to meet the following qualifications, where applicable, except as otherwise provided by agreement with the city:

(1) That such person, firm or corporation is insured, and will continue to be insured, and will provide the city with evidence of such insurance against public liability and property damage in the amounts established by the city's risk management policy for each of the following:

a. For injury or death to a person.

b. For damage to property.

c. For aggregate damage to property.

(2) Maintain a capital investment upon the airport of equipment, the fair value of which, at all times, shall be not less than $16,000.00; except in the case of those persons authorized solely to operate concessions, vending machines, or any other commercial enterprises other than that more particularly described in this division, such person, firm or corporation shall maintain, at all times, property and equipment upon the airport, the fair value of which shall be not less than $3,000.00.

(3) That in the case of those persons, firms or corporations offering charter, rental, flight instruction, or sale at retail or wholesale of new or used aircraft, such persons shall maintain a current agreement as an aircraft dealer with some recognized, responsible aircraft manufacturer or franchised dealer.

(b) *Agreement to be executed.* Upon receipt of an application as provided for in subsection (a) of this section, the city council shall, within 30 days, hold a hearing and review the application in the light of public convenience and necessity for such services at the municipally owned airport; an appropriate agreement in the form and content as approved by ordinance shall be executed by the city manager. The agreement shall provide for, among other things, the place and time for the payment of fees; the rights, duties, responsibilities and obligations of the parties thereto; and the term of this agreement.

(Code 1989, § 3-38; Ord. No. 10016, § 5, 6-4-1973)

Sec. 4-71. License and permit fees.

(a) In consideration of being granted the right and permission to make a commercial use of any municipally owned airport in any one or more of the above categories, any and all such persons, firms or corporations shall pay to the city the fees as agreed to by contract between the city and the licensee.

(b) In addition to the foregoing, the city reserves to itself the right and privilege to lease, upon such terms and conditions as it may from time to time determine, such publicly owned facilities, including hangars, shops, terminal building facilities, ramp, apron, and unimproved area space, to those persons authorized to perform commercial operations upon the airport, and to other persons that the city council may approve.

(Code 1989, § 3-39; Ord. No. 10016, § 6, 6-4-1973)

Sec. 4-72. Fees for use of public use apron.

Fees and policies for parking planes on the public use apron of the airport areas shall be as provided in the city's fee schedule.

(Code 1989, § 3-40; Ord. No. 10016, § 7, 6-4-1973)

Sec. 4-73. Airmen, pilots, private aircraft to comply with ordinances, laws, rules and regulations.

All airmen, pilots and other persons shall navigate and fly all aircraft to, from and on, the municipally owned airport in conformity with the ordinances of the city, the laws of the state, and the laws of the United States, any rules, regulations and orders promulgated thereunder, including the air traffic rules and civil air rules, as established by the Federal Aviation Administration. The municipally owned airport shall be available for the landing and taking-off of private aircraft, not used for commercial purposes, or any individual, without charge, provided that the operator or pilot of such aircraft shall possess a valid pilot's certificate issued by the Federal Aviation Administration, and such aircraft shall be only that which is certified by the Federal Aviation Administration. It is the pilot's and aircraft owner's responsibility to ensure that they and the aircraft that they are operating in is in compliance with all local state, and federal, rules, laws, regulations, requirements, and policies.
(Code 1989, § 3-41; Ord. No. 10016, § 8, 6-4-1973; Ord. No. 11880, § 5, 7-20-2009; Ord. No. 12096, § 1, 1-6-2014)

Sec. 4-74. Responsibilities and duties of commercial operators using the airport.

No person shall use the municipal airport as a base from which to operate aircraft for the instruction of persons in the operation of aircraft, as a base for charter planes, or for carrying persons or property for hire in aircraft, without first complying with the provisions of this division, and every such person shall comply with the following rules and regulations:

(1) All airplanes and aircraft used by commercial operators shall be kept in an airworthy condition at all times, and shall be subject to inspection by a qualified individual designated by the airport director.

(2) All pilots or instructors employed by commercial operators shall hold the proper license or certificate issued by the Federal Aviation Administration, and shall be registered at a location designated by the airport director, showing their names, addresses and telephone numbers. All instructors are also required to contact the Transportation Security Administration (TSA) prior to performing aircraft pilot training. All students of such commercial operator shall likewise be registered at a location designated by the airport director.

(3) All aircraft used by commercial operators shall be of approved types and certified by the Federal Aviation Administration, and each aircraft shall have the standard equipment, and in addition, a fire extinguisher and first aid kit.

(4) Each commercial operator shall be held responsible for the conduct of each and every student enrolled in the operator's school at all times while the student is in attendance at the airport, and shall be held responsible for the conduct of the operator's employees.

(5) Such operators shall be responsible for all damage or destruction to the property of the city or of others, caused by the negligence or carelessness of their students or employees.

(6) All commercial operators shall faithfully abide by the terms and conditions imposed by the city council at the time of granting permission to such operators to operate at the municipally owned airport, and the terms of this division. All commercial operators shall file reports of their operations when request by airport director.

(7) Any person, firm or corporation, or the agents, servants or employees thereof, who, by aircraft or other device, carries persons aloft, or permits persons to be carried aloft for the purpose of jumping therefrom, by parachute or other device, shall be deemed to be a commercial user

of the airport, subject to all the regulations, requirements and conditions of this division.

(Code 1989, § 3-42; Ord. No. 10016, § 9, 6-4-1973; Ord. No. 11880, § 6, 7-20-2009; Ord. No. 12096, § 1, 1-6-2014)

Sec. 4-75. Rules and regulations to conform to Airport Certification Manual.

All rules and regulations shall be in conformance with the Airport Certification Manual as approved by the city council and the Federal Aviation Administration.

(Code 1989, § 3-43; Ord. No. 10016, § 10, 6-4-1973; Ord. No. 11880, § 7, 7-20-2009)

Sec. 4-76. Kirksville Regional Airport billing and collection policy.

Fuel sales, billing and collection will be in accordance with city council policy regarding billing and collection.

(Code 1989, § 3-43; Ord. No. 10987, § 1, 5-20-1991; Ord. No. 11880, § 8, 7-20-2009; Ord. No. 12096, § 2, 1-6-2014)

Sec. 4-77. Airport security measures.

Airport security measures will be established and conducted in accordance with the Transportation Security Administration approved Airport Security Program (ASP) and local, state, and federal laws. The ASP document is confidential in nature and only available to government entities on a need to know basis. All vehicles, personnel, baggage, and belongings are subject to search prior to entering the airport properties or terminal. Loitering on airport property is strictly prohibited unless there for passenger drop off or pickup.

Chapter 5

RESERVED

Chapter 6

ALCOHOLIC BEVERAGES

Article I. In General

Article II. Licenses

Division 1. Generally

Division 2. Classification and Fees

ARTICLE I. IN GENERAL

Sec. 6-1. Purpose; definitions.

(a) Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this chapter adhere to vital state regulation established for the sale and distribution of alcohol beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important goals such as maintaining an orderly marketplace composed of licensed alcohol producers, importers, distributors, and retailers.

(b) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Closed place means a place where all doors are locked and where no patrons are in the place or about the premises.

Intoxicated or *intoxicated condition*. A person is in an intoxicated condition when the person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

Intoxicating liquor (spirits) means alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter.

Intoxicating malt liquor (beer). Beer shall be brewed from malt or malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar and molasses. Honey fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer. Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but cannot contribute more than 49 percent of the overall alcohol content of finished beer. Beer with an alcohol content of more than six percent by volume, cannot consist of more than 1½ percent of the volume to be derived from added flavors and other nonbeverage ingredients containing alcohol.

Managing officer means a person in the licensee's employ, either as an officer or as an employee, who is vested with the general control and superintendence of a whole, or a particular part of, the licensed business.

Microbrewery means a business whose primary activity is the brewing and selling of beer, with an annual production of 10,000 barrels or less.

Not-for-profit organization means any tax-exempt church, school, civic, service, fraternal, veteran, political, or charitable club or organization registered with the Secretary of State as a nonprofit entity and U.S. Treasury Department exempting the organization from taxes under 501(C)3, 501(C)4, 501(C)5, 501(C)7, 501(C)8, 501(C)10, 501(C)19, or 501(D).

Original package means any package containing one or more standard bottles, cans or pouches of beer.

Person means any individual, association, joint stock company, syndicate, copartnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court to whom or to which any provision of this chapter applies or may apply.

Premises means the place where intoxicating liquor is sold. The premises can be one room, a building of several rooms or a building with adjacent or surrounding land such as a lot or garden.

(Code 1989, § 4-1; Ord. No. 11607, 3-3-2003; Ord. No. 11830, § I, 4-1-2008; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-2. Violations; penalty.

(a) It shall be unlawful for any person to violate any of the provisions of this chapter.

(b) Any person found guilty of violating any of the provisions of this chapter shall be subject to the provisions as outlined in section 1-8.

(Code 1989, § 4-2; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-3. Minors.

(a) *Purchase or possession.* Any person under the age of 21 years, who purchases or attempts to purchase, or has in the person's possession, any intoxicating liquor as defined in section 6-1, or who is visibly intoxicated as defined in section 6-1, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a violation of this Code. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under the age of 21 years, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

(b) *Sale, etc., to minor.* Any licensee under this chapter, or licensee's employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of 21 years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except the person's parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of 21 years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a violation of this Code, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of 21 years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician.

(c) *Misrepresenting age.*

(1) Any person of the age of 17 years or older, and under the age of 21 years, who shall represent that the person has attained the age of 21 years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, shall, upon conviction, be deemed guilty of a violation of this Code.

(2) In addition to any other penalties established in subsection (c)(1) of this section and established in RSMo 577.500 to 577.530, any person who is less than 21 years of age who uses a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by an uniformed service of the United States, passport or identification card established in RSMo 302.181, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, shall be guilty of a violation of this Code and shall be subject to the provisions as outlined in section 1-8 for each separate offense.

(d) *Expunging of record.* After a period of not less than one year after reaching the age of 21 years, a person who has pleaded guilty to or has been found guilty of violating subsection (a) of this section for the first time, and who since such conviction has not been convicted of any other alcohol-related offense, may apply to the county circuit court for an order to expunge all official records of the arrest, plea, trial and conviction. No records shall be expunged if the person who has pleaded guilty to or has been found guilty of violating subsection (a) of this section is licensed as a commercial motor vehicle driver or was operating a commercial motor vehicle as defined in RSMo 302.700 at the time of the violation. If the court determines, upon review, that such person has not been convicted of any other alcohol-related convictions at the time of the application for expunging, and the person has had no other alcohol-related enforcement contacts, the court shall enter an order of expunging. The effect of such an order shall be to restore such person to the status the person occupied prior to such arrest, plea or conviction, as if such event has never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of

perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, plea, trial, conviction or expunging in response to any inquiry made of the person for any purpose whatsoever. A person shall be entitled to only one expungement pursuant to this section. Nothing contained in this section shall prevent courts or other state officials from maintaining such records as are necessary to ensure that an individual receives only one expungement pursuant to this section.
(Code 1989, § 4-3; Ord. No. 11607, 3-3-2003; Ord. No. 11830, § II, 4-1-2008; Ord. No. 12141, § I, 1-5-2015; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-4. Public drinking, consumption, possession, etc.

(a) It shall be unlawful for any person to drink or consume any intoxicating liquor in or upon any street, sidewalk, or alley or in any other public place within the city.

(b) It shall be unlawful for any person to possess or exercise control over an opened can, bottle, keg or other container designed or modified to contain liquid, including cups and glasses, of any intoxicating liquor in or upon any street, sidewalk, or alley or in any other public place within the city.

(c) This section shall not apply to drinking, consuming or possessing any intoxicating liquor lawfully sold in a place licensed to sell the same for consumption on the premises where sold.

(d) This section shall not apply to drinking, consuming or possessing any intoxicating liquor consumed and/or possessed within the confines of and during a city council approved celebration, special event or fair held on city property in the central business district, Rotary Park Amphitheater, North Park Complex, or Kirksville Regional Airport so long as the consumption and possession of alcoholic beverages is physically restricted and controlled in accordance with the terms of a special permit issued by the city council, and so long as all consumption and possession ends no later than 1:00 a.m., so long as no glass containers are permitted on city property, and so long as all other terms and conditions established by the city for the temporary use of its property are met.
(Code 1989, § 4-4; Ord. No. 11607, 3-3-2003; Ord. No. 11864, § 2, 3-16-2009; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-5. Hours of sale; holidays on Sunday.

(a) *Hours of sale.* Except as otherwise provided in this chapter, no person having a license issued under the provisions of this chapter, nor any employee of such person, shall sell, give away or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. on Monday, upon or about the person's premises. If the person has a license to sell intoxicating liquor by the drink, the premises shall be and remain a closed place during the same time. Where such licenses authorizing the sale of intoxicating liquor are held by clubs, hotels, or bowling alleys, this section shall apply only to the rooms in which intoxicating liquor is dispensed. Where licenses are held by restaurants or bowling alleys where business is conducted in one room only, then the licensee shall keep securely locked during the hours and on days specified in this section all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor is dispensed.

(b) *Holidays on Sunday/Super Bowl Sunday.* When January 1, March 17, July 4, or December 31 falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday," any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of the person's license on that day from the time and until the time which would be lawful on another day of the week.
(Code 1989, § 4-5; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 11830, § III, 4-1-2008; Ord. No. 12278, § 1, 4-16-2018)

Secs. 6-6—6-28. Reserved.

ARTICLE II. LICENSES

DIVISION 1. GENERALLY

Sec. 6-29. Required; term; prorating; renewal.

It is hereby declared unlawful for any person, either by the person or through the use of agents or servants, to engage in the manufacture, brewing, sale or distribution of intoxicating liquors within the city without first having taken out and obtained a license authorizing such manufacture, brewing, sale or distribution, in compliance with the terms of this article. Such license shall be issued for a period of one year from July 31 of each year, and persons desiring to secure licenses after July 31 shall pay for such portion, in twelfths, of the license year remaining at the time such a license is issued (part of a month counted as one entire month). Thereafter, all renewals of licenses shall be made on July 31 of each year.
(Code 1989, § 4-26; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-30. Qualifications.

No person shall be granted a license, including a temporary license, without providing a state issued liquor license for the same type and duration as being applied. No person shall be granted a license under this article whose license as a dealer has been revoked, or who has been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of a violation of the provisions of any law or ordinance applicable to the manufacture or sale of intoxicating liquor, or who employs in the person's business as such dealer any person whose license has been revoked unless five years have passed since the revocation, or who has been convicted of violating the provisions of any such law or ordinance since the date mentioned above. No person required to obtain a valid business license shall be granted a liquor license, without first obtaining a valid business license. No license, including renewal, shall be issued to any person until all financial obligations due and owing to the city are paid in full.
(Code 1989, § 4-27; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-31. Application and renewal.

(a) Any person desiring to secure a license under the terms of this article shall complete all portions of the liquor license application or renewal form, in a timely manner, to seek city council approval at a regularly scheduled meeting.

(b) The application shall provide all required supplemental support as outlined in the application or renewal form.

(c) The application shall be accompanied by the license fee as outlined on the fee schedule approved by the city council.
(Code 1989, § 4-28; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-32. Issuance.

(a) Upon receipt of a complete application, a copy shall be forwarded to city departments who shall make an immediate investigation of the safety and sanitation of the premises of the applicant, and the equipment and furnishings contained in the applicant's premises, and shall report the findings of such investigations to the finance department. Any deficiencies must be corrected, inspected and approved before final approval of the license.

(b) After full consideration of the application for a license under this article, the application will be presented to the city council for review and final approval.

(c) The city council shall designate the city manager to act on their behalf in giving consent for the issuance of a temporary license for the sale of intoxicating liquor for events not held within 100 feet of a school, church, or place of worship, as long as the applicant follows the guidelines regarding any special event.
(Code 1989, § 4-29; Ord. No. 11607, 3-3-2003; Ord. No. 11789, 2-28-2007; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-33. Review upon denial of application.

If an application for a license under this article is denied by the city council, the applicant may request, in writing, a review of such denial by the city council. Such request shall be made by the applicant within ten days after the application for license has been denied by the city council. Upon the written request for review made within the time specified, the city council shall, within 30 days after the receipt of such request, reinvestigate and reexamine the circumstances surrounding such application and the denial thereof. The city council may set aside the denial of such application if a majority of its members determine that such application should be granted, and the city council may order the issuance of the license applied for. In the event that the city council does not approve or disapprove the application within 30 days from the date such application is filed, then it shall be assumed that such application is denied.
(Code 1989, § 4-30; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-34. Number required.

A separate license shall be required for each place of business operated under the provisions of this article.
(Code 1989, § 4-31; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-35. Proximity.

(a) No license for the sale or consumption of intoxicating liquor shall be issued for any premises located within 100 feet of a school, church or other building regularly used as a place of religious worship, unless the applicant shall first obtain the consent in writing of the city council; except that when a school, church or place of worship shall be established within 100 feet of any premises licensed to sell alcoholic beverages, the license shall not be denied for lack of such consent. Such consent shall not be granted until at least ten days' written notice has been provided to all owners of property within 100 feet of the proposed licensed premises. If a temporary event is held in proximity to a school, church or place of worship, the applicant must provide an acknowledgement letter of approval for the event from such school, church or place of worship.

(b) The city council may prohibit the granting of a license for the sale of intoxicating liquor within a distance as great as 300 feet of any school, church, or other building regularly used as a place of religious worship, except that when a school, church, or place of worship is established within the prohibited distance from any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason.

(c) For the purposes of this section, the term "church" means a church building or student center building erected and maintained as a church or building in which services are regularly held, provided that the mere holding of religious services in any building not built and constructed as a church or student center building shall not bring such building within the definition of a church as set out in this subsection, unless the entity holding regular services has obtained distinct legal existence, as defined by the Internal Revenue Service.

(d) The city council shall designate the city manager to act on their behalf in giving consent for the issuance of a temporary license for the sale of intoxicating liquor for events not held within 100 feet of a school, church, or place of worship, as long as the applicant follows the guidelines regarding any special event.
(Code 1989, § 4-32; Ord. No. 11607, 3-3-2003; Ord. No. 11789, 2-28-2007; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-36. Transfer; location restricted; change of ownership, management.

(a) No license issued under the provisions of this article shall be transferred from one person to another, nor shall such license be used at any place except on the premises for which such license is issued. In the event of the death of the licensee, the widow or widower or the next-of-kin of such deceased licensee, who shall meet the other requirements of this article, may complete an application to transfer such license to permit the operation of the business of the deceased for

the remainder of the period for which a license fee has been paid by the deceased, A copy of the transferred license issued by the state must be received before final city approval is granted.

(b) If, at any time, a licensed business changes ownership, including a substantial change in stock ownership, as in the case of a corporation, then it shall be necessary to apply for a new license in the same manner as for an original license. The state retail sales tax license must match the name of the new entity and follow the licensing requirements under chapter 12.

(c) In the event that the office of the managing officer of a corporation licensed under this article shall become vacant, it shall be necessary for the corporation to secure a new managing officer who meets the qualifications of section 6-30 and who shall file an application in the same manner as for the original license; provided, however, that there shall be no fee charged in connection therewith.
(Code 1989, § 4-33; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-37. Suspension, revocation of licenses.

(a) The city council may, in addition to other penalties provided by ordinance, suspend or revoke a license issued pursuant to this article if the licensee or licensee's employees or agents shall have been shown to be guilty of, to have violated, or to be involved in, any of the following:

(1) Whenever licensee has not kept an orderly place;

(2) An offense resulting in a conviction involving the use of force or violence upon the person of another in the operation of the business of licensee;

(3) A conviction of a crime involving a felony by licensee or any of the officers or the managing officer of licensee;

(4) Any false, misleading or fraudulent statement of fact in the license application for the licenses or in any other document required by the city in conjunction therewith;

(5) Violation of any of the provisions of this chapter;

(6) Violation of any state liquor control rule or regulation pertaining to the sale and licensing of intoxicating liquors;

(7) Operation of the business in such a manner that it constitutes a public and common nuisance;

(8) Conduct by the officers, employees, or managing officers of the licensee, such as public drunkenness when working or while on the premises, and indecent exposure when working or when on the premises. For purposes of this subsection, the term "premises" includes the licensed premises, the parking lots and the area around the business which is owned, used or maintained as part of the business;

(9) Lack of proper control of customers. The licensee shall use good judgment in the sale of intoxicating beverages and shall not sell same to persons obviously intoxicated. The licensee has the obligation to supervise the premises that the licensee privately owns and shall keep said premises free from litter;

(10) The operation or possession of any gambling device in or about the premises where intoxicating liquor is sold, either in the original package or for consumption on the premises where sold.

(b) Any person who has been denied a license or renewal thereof or who is licensed pursuant to this article and who has received a notice of intent to suspend or revoke said license may request a hearing before the city council. Requests for such hearings shall be filed with the city clerk within ten days after notice is given of the intention to suspend or revoke. Upon receipt of a timely written request for hearing, the council shall call a hearing and shall set forth in writing and send to the applicant or licensee or permittee, by means of registered mail, certified mail or hand delivery, notice that within a period of not less than five days nor more than 14 days from the date of the posting of said notice, a hearing

shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The notifications shall include the date, time and place of the hearing. At least three members of the council shall be in attendance. The applicant or licensee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant or licensee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the denial, suspension or revocation of the license or permit shall be considered not rebutted. The hearing need not be conducted according to the rules of evidence. Any relevant evidence may be admitted and considered by the council if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the council. A copy of the decision of the council specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. In the case of suspension or revocation, the city shall in no event return any part of the license fee paid for such license. Also in this case, the council may suspend the license upon whatever terms and conditions or for such time period deemed appropriate.
(Code 1989, § 4-34; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-38. Certain acts prohibited on licensed premises.

No retail licensee or licensee's employee shall permit in or upon the licensed premises:

(1) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The displaying of any portion of the areola of the female breast;

(3) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(4) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(5) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of genitals or anus;

(6) The displaying of film video programs or picture depicting acts, the live performances of which are prohibited by this section or any other law.

(Code 1989, § 4-35; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Secs. 6-39—6-64. Reserved.

DIVISION 2. CLASSIFICATION AND FEES

Sec. 6-65. Classes created.

The classes of licenses in this division are hereby created for the manufacture and sale of intoxicating liquor at wholesale and retail as set forth in RSMo ch. 311. Fees for such licenses are set forth in the city's fee schedule as approved by city council. Each license, as described in the following sections, shall only be issued to applicants who have complied with this article.
(Code 1989, § 4-51; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-66. Retail; retail by the drink license (spirits, wine and beer).

This license allows retailers to serve intoxicating liquor by the drink for consumption on the licensed premises. This license allows retailers to operate between the hours of 6:00 a.m. and 1:30 a.m. on weekdays and Saturdays, including all election days. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-52; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-67. Retail; retail by the drink license (spirits, wine and beer) tax-exempt.

This license allows retailers to serve intoxicating liquor by the drink for consumption on the licensed premises. This license allows retailers to operate between the hours of 6:00 a.m. and 1:30 a.m. on weekdays and Saturdays, including

all election days. This requires the applicant applying to provide a letter from the U.S. Treasury Department exempting the organization from taxes under 501(C)3, 501(C)4, 501(C)5, 501(C)7, 501(C)8, 501(C)10, 501(C)19, or 501(D); and a copy of the applicant's charter, if chartered by a national organization. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-53; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-68. Retail; beer by the drink and wine license (beer and light wine).

This license allows retailers to serve beer and light wines containing not in excess of 14 percent alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink for consumption on the licensed premises. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-54; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-69. Retail; beer by the drink license (beer; includes Sunday sales).

This license allows retailers to serve intoxicating malt liquor, as defined in section 6-1 and not to exceed five percent by the drink for consumption on the licensed premises. This license allows retailers to operate between the hours of 6:00 a.m. and 1:30 a.m. on weekdays and Saturdays and between the hours of 9:00 a.m. and 12:00 midnight on Sunday. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-55; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-70. Retail; Sunday license (spirits, wine and/or beer).

This license allows Sunday sales of intoxicating liquor, notwithstanding any provisions of this article to the contrary based on the original liquor license, between the hours of 9:00 a.m. on Sunday and 12:00 midnight on Sunday. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-56; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-71. Retail; package, liquor (includes spirits, wine and beer).

This license allows retailers to sell intoxicating liquor in the original package, not to be consumed upon the premises where sold. No license shall be issued except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in store a stock of goods having a value according to invoices of at least $1,000.00, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold, nor shall any original package be opened on the premises of the vendor except as otherwise provided in this law. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-57; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-72. Other retail; original package tasting license.

(a) Any person who is licensed to sell intoxicating liquor in the original package at retail may apply for a special license to conduct wine, malt beverage and distilled spirit tastings on the licensed premises.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-57.1; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-73. Retail; beer original package license (including Sunday sales).

This license allows retailers to sell intoxicating malt liquor, as defined in section 6-1 and not in excess of five percent by weight, by grocers and other merchants and dealers in the original package direct to consumers, but not for resale. The term "original package" means any package containing three or more standard bottles of beer. This license shall also permit the holders to sell malt liquor at retail between the hours of 9:00 a.m. and 12:00 midnight on Sunday. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-58; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-74. Temporary; picnic license (not-for-profit organizations, spirits, wine and beer).

(a) Notwithstanding any provisions of this article, this temporary retail liquor by the drink license for the sale of intoxicating liquor may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor for consumption on the premises at a picnic, bazaar, fair, or similar gathering. The temporary license shall be issued only for the day named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization and must adhere to section 6-35.

(b) This permit does allow for sales in the original package for consumption off the premises.

(c) If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 a.m. and ending at 12:00 midnight.

(d) At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event by certified mail and accepts responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within 15 days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

(e) No provision of law or rule or regulation of the city shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling and/or dispensing equipment for use by the license holder at such picnic, bazaar, fair or similar gathering.

(f) Picnic licensees may accept a gift from a distiller, wholesaler, winemaker or brewer not to exceed a value of $1,000.00 per year.
(Code 1989, § 4-59; Ord. No. 11607, 3-3-2003; Ord. No. 11789, 2-28-2007; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-75. Temporary; picnic license (not-for-profit organizations, beer and light wine) June 15 through July 15.

(a) Notwithstanding any provisions of this article, this temporary retail liquor by the drink license for the sale of wine, not in excess of 14 percent of alcohol by weight, and malt liquor may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor for consumption on the premises at a picnic, bazaar, fair, or similar gathering or event held to commemorate the annual anniversary of the signing of the Declaration of Independence of the United States. The temporary license shall be issued only for events from June 15 to July 15 and only for the days named therein; and between the hours of 10:00 a.m. and 12:00 midnight and not for more than seven days by any such organization.

(b) This permit does allow for sales in the original package for consumption off the premises.

(c) A signed affidavit stating that the event is being held to commemorate the annual anniversary of the signing of the Declaration of Independence of the United States and that the

organization does not select or restrict membership on the basis of race, religion, color, creed or place of national origin shall be provided.

(d) At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event by certified mail and accepts responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within 15 days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

(e) No provision of law or rule or regulation of the city shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling and/or dispensing equipment for use by the license holder at such picnic, bazaar, fair or similar gathering.

(f) Picnic licensees may accept a gift from a distiller, wholesaler, winemaker or brewer not to exceed a value of $1,000.00 per year.
(Code 1989, § 4-60; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-76. Temporary; retail by drink caterer's license (spirits, wine and beer).

(a) A temporary license may be issued to caterers and other persons holding licenses to sell intoxicating liquor, at retail by the drink for consumption on the licensed premises under this article, who furnish provisions and services for use at a particular function, occasion or event, at a particular location other than the licensed premises, but does not include a festival. The license is effective for a period not to exceed 168 consecutive hours or seven days, which shall authorize the service of alcoholic beverages at such function, occasion or event, during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption.

(b) If the event lasts past 12:00 midnight, the licensee must also pay for the next day.

(c) All provisions of the liquor control law and the city ordinances, rules and regulations in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all times that the license holder, its agents, servants, employees, or stock are in such premises. During this event, this temporary permit shall allow the sale of intoxicating liquor in the original package off premises.

(d) Any nonresident caterer who possess a valid state caterer's liquor license cannot deliver alcoholic beverages within the city without obtaining a local caterer's license issued by the city. The applicant is not required to hold a retail by the drink license from the city to obtain this license.

(e) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-61; Ord. No. 11607, 3-3-2003; Ord. No. 11789, 2-28-2007; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-77. Temporary; retail by drink caterer's license (light wine and beer).

(a) A temporary license may be issued to caterers and other persons holding licenses to sell beer and light wine, not in excess of 14 percent of alcohol by weight, at retail by the drink for consumption on the licensed premises under this article, who furnish provisions and services for use at a particular function, occasion or event, at a particular location other than the licensed premises, but does not include a festival. The license is effective for a period not to exceed 168 consecutive hours or seven days, which shall authorize the service of alcoholic beverages at such function, occasion or event, during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption.

(b) If the event lasts past 12:00 midnight, the licensee must also pay for the next day.

(c) All provisions of the liquor control law and the city ordinances, rules and regulations in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all times that the license holder, its agents, servants, employees, or stock are in such premises. During this event, this temporary permit shall allow the sale of beer and light wine in the original package off premises.

(d) Any nonresident caterer who possesses a valid state caterer's liquor license cannot deliver alcoholic beverages within the city without obtaining a local caterer's license issued by the city. The applicant is not required to hold a retail by the drink license from the city to obtain this license.

(e) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-62; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-78. Temporary; retail by drink caterer's license (spirits, wine and beer—50 days maximum).

(a) A temporary license may be issued to caterers and other persons holding licenses to sell intoxicating liquor, at retail by the drink for consumption on the licensed premises under this article, who furnish provisions and services for use at a particular function, occasion or event, at a particular location other than the licensed premises, but does not include a festival. The license is effective for up to 50 different days, which shall authorize the service of alcoholic beverages at such function, occasion or event, during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption.

(b) If the event lasts past 12:00 midnight, the licensee must also pay for the next day.

(c) All provisions of the liquor control law and the city ordinances, rules and regulations in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all times that the license holder, its agents, servants, employees, or stock are in such premises. Events held during this temporary permit shall allow the sale of intoxicating liquor in the original package off premises for up to 50 days.

(d) Caterers must report the location of each function five days in advance to the finance department and adhere to the policy of the city, for any catering event held in conjunction with such.

(e) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-63; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-79. Temporary; retail by drink festival license (spirits, wine and beer).

(a) A temporary license may be issued to persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this article who furnish provisions specifically for large musical festival type events that attract 5,000 or more people and continue for a period of 12 hours or more. The license can be effective for up to 168 consecutive hours or seven days, which shall authorize the service of alcoholic beverages at such festival, during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption.

(b) If the event lasts past 12:00 midnight, the licensee must also pay for the next day.

(c) All provisions of the liquor control law and the city ordinances, rules and regulations in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all times that the license holder, its

agents, servants, employees, or stock are in such premises. During this event this temporary permit shall allow the sale of intoxicating liquor in the original package off premises.

(d) This license allows wholesalers to provide refrigerated trucks and other customary storage, cooling or dispensing equipment that a caterer's license does not allow and wholesalers may give credit for intoxicating liquor delivered, but not used, if the wholesaler removes the product within 72 hours of the expiration of the permit.

(e) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-64; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-80. Temporary; retail by drink festival license (light wine and beer).

(a) A temporary license may be issued to persons holding licenses to sell light wine, not to exceed 14 percent of alcohol per weight, and beer by the drink at retail for consumption on the premises pursuant to the provisions of this article who furnish provisions specifically for large musical festival type events that attract 5,000 or more people and continue for a period of 12 hours or more. The license can be effective for up to 168 consecutive hours or seven days, which shall authorize the service of alcoholic beverages at such festival, during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption.

(b) If the event lasts past 12:00 midnight, the licensee must also pay for the next day.

(c) All provisions of the liquor control law and the city ordinances, rules and regulations in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all times that the license holder, its agents, servants, employees, or stock are in such premises. During this event this temporary permit shall allow the sale of intoxicating liquor in the original package off premises.

(d) This license allows wholesalers to provide refrigerated trucks and other customary storage, cooling or dispensing equipment that a caterer's license does not allow and wholesalers may give credit for intoxicating liquor delivered, but not used, if the wholesaler removes the product within 72 hours of the expiration of the permit.

(e) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-65; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-81. Other retail; state produced wine by the drink.

This license allows distillers, wholesalers, winemakers, brewers or their employees, officers or agents whose manufacturing establishment is located within this state to sell intoxicating liquor for a seven-day, by the drink license for consumption on the premises where sold, provided that the premises so licensed shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. This also requires that 75 percent or more of the intoxicating liquor sold by such licensee shall be state-produced wines. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-66; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-82. Wholesale solicitor; five percent (beer only).

This license shall be issued to any applicant who complies with this article for the privilege of selling intoxicating liquor containing not in excess of five percent alcohol by weight by a wholesaler to a person duly licensed to sell intoxicating beer at retail, and the privilege of selling to licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not more than five percent of alcohol by weight, to, by or through a

licensed wholesaler in the state. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-67; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-83. Wholesale solicitor; 22 percent (wine and beer).

This license shall be issued to any applicant who complies with this article for the privilege of selling intoxicating liquor not in excess of 22 percent of alcohol by weight by a wholesaler to a person licensed to sell such intoxicating liquor at retail, and for the privilege of selling to a licensed wholesaler and soliciting orders for the sale of such intoxicating liquor to, by or through a licensed wholesaler in the state. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-68; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-84. Wholesale solicitor; liquor (spirits, wine and beer).

This license shall be issued to any applicant who complies with this article for the privilege of selling intoxicating liquor by a wholesaler to a person licensed to sell intoxicating liquor at retail, and for the privilege of selling to licensed wholesalers and soliciting orders for the sale of intoxicating liquor to, by or through a licensed wholesaler in the state. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-69; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-85. Other retail; consumption of liquor license (building and hall rentals).

This license shall be issued to any applicant who has complied with this article for the privilege of permitting any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor, to permit the drinking or consumption of intoxicating liquor on the premises between the hours of 6:00 a.m. and 1:30 a.m. on weekdays and Saturdays. The licensee cannot sell any intoxicating liquor. Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-70; Ord. No. 11607, 3-3-2003; Ord. No. 11675, 6-28-2004; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-86. Manufacturer; microbrewery license (beer only).

(a) This microbrewer's license shall be issued to all applicants who have complied with this article which shall authorize the licensee whose primary activity is to manufacture beer and malt liquor in quantities not to exceed 10,000 barrels per annum. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to licensed wholesalers. However, holders of a microbrewer's license shall not, under any circumstances, directly or indirectly have any financial interest in any wholesaler's business.

(b) Notwithstanding any other provisions of this article, the holder of a microbrewer's license may apply for a retail by the drink license to sell intoxicating liquor for consumption on the brewery premises and in the original package for off-premises consumption.

(c) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.
(Code 1989, § 4-71; Ord. No. 11607, 3-3-2003; Ord. No. 12278, § 1, 4-16-2018)

Sec. 6-87. Manufacturer; domestic winery (light wine and brandy).

(a) This license shall be issued to all applicants who have complied with this article which shall authorize the licensee whose primary activity is to manufacture wine or brandy in quantities not to exceed 500,000 gallons per annum, not in excess of 18 percent alcohol by weight for wine, or not in excess of 34 percent alcohol by weight for brandy, from grapes, berries, other fruits, fruit products, honey and vegetables produced or grown in the state, exclusive of sugar, water and spirits.

(b) Notwithstanding any other provisions of this article, the holder of a domestic winery licensed under this section may offer samples of state-produced wine, may sell state-produced wine and brandy in its original package directly to consumers at the winery, and may open wine purchased by customers so that it may be consumed on the winery premises on Monday through Saturday between 6:00 a.m. and 12:00 midnight and on Sunday between 9:00 a.m. and 10:00 p.m. If the domestic winery licensed by this section manufactures 200 gallons of wine annually, the winery may apply for a retail by the drink license for consumption on the winery premises and in the original package for off-premises consumption.

(c) Section 6-35 governs the granting of temporary licenses, where applicable, under this section.

(Code 1989, § 4-72; Ord. No. 12278, § 1, 4-16-2018)

Chapter 7

RESERVED

Chapter 8

ANIMALS AND FOWL

Article I. In General

Article II. Dangerous and Restricted Animals

ARTICLE I. IN GENERAL

Sec. 8-1. Definitions.

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

Animal means every nonhuman species of animal, both domestic and wild.

Animal shelter means any facility so licensed by the state, for the purpose of impounding animals under the authority of this chapter or state law for care, confinement, return to owner, adoption or euthanasia.

At large means off the premises of the owner, and not under the restraint of the owner, the owner's agent or member of the owner's immediate family.

Authorized / designated volunteer organization means a local animal rescue group designated, by city council, to manage and administer the TNR program. A list of groups (and their contacts/ board members) so designated will be kept in the office of the city clerk.

Cat means a domesticated animal that is a member of the felidae (genus feline) family, but does not include a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other wild animal of this family or hybrids.

Continuing public safety hazard means the prohibited behavior of any adjudicated vicious animal that is likely to continue.

Dog means a domesticated animal that is a member of the canine (genus canis) family, but does not include a wolf, jackal, fox or other wild animal of this family or hybrids.

Ear tip means a mark identifying a feral cat as being in the TNR program, specifically, the removal (by the designated volunteer organization or their veterinarian) of approximately three-eighths of an inch off the tip of the cat's left ear in a straight line, or other identifier as approved by the city animal control officer.

Feral cat means a cat that is unsocialized to people and typically avoids contact with humans.

Feral cat caregiver means any person, in association with the duly authorized /designated volunteer TNR organization, who, in accordance with good faith effort to trap, neuter, vaccinate and return the feral cat, provides volunteer care to a feral cat.

Livestock includes cattle, horses, mules, goats, sheep, hogs, ducks, geese, turkeys, lamas, emu, ostriches, camels or other domestic beast or fowl.

Owner means any person, partnership or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days. The term "owner" does not include a person caring for a feral cat, as a feral cat caregiver, as approved in this chapter.

Public nuisance animal means any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of persons, other than its owner, to enjoyment of life or property. The term "public nuisance animal" includes, but is not limited to, an animal that:

(1) Is repeatedly found at large, and is not a feral cat in the registered TNR program;

(2) Damages the property of anyone other than its owners;

(3) Molests or intimidates pedestrians or passersby;

(4) Chases vehicles;

(5) Excessively makes disturbing noises, including, but not limited to, continued barking, howling or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(6) Attacks other domestic animals.

Restraint means when any animal is secured by a leash or lead under the control of its owner, agent or immediate member of the owner's family, and obedient to that person's commands.

Trap-neuter-return / TNR means a nonlethal approach to the management of the feral cat population where feral cats are humanely trapped,

sterilized, vaccinated, ear tipped, and then returned to the location where they were originally trapped. TNR is managed/administered by a private rescue group, as authorized by city council, and does not involve active involvement/participation by the city or its employees.

Vicious animal means any animal that attacks, bites, or injures human beings or other domestic animals without adequate provocation; or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or other domestic animals without adequate provocation; or which threatens to attack, bite or injure a human being or other domestic animal without adequate provocation.
(Code 1989, § 5-1; Ord. No. 10811, § 1(II), 3-21-1988; Ord. No. 11831, § I, 4-1-2008; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-2. Animal control officer.

There is created in the police department of the city the position of animal control officer.
(Code 1989, § 5-2; Ord. No. 10811, § 1(I), 3-21-1988)

Sec. 8-3. Licensing.

(a) Every resident person who owns, controls, manages, possesses or has part interest in any cat or dog four months of age or older, kept any time during the year, or every resident person who permits a cat or dog four months of age or older, to come upon, on or in, and to remain in or about home, place of business or other premises in the area affected by this chapter (which does not include ear tipped feral cats in the approved TNR program), shall obtain from the police department, a one-year license for such cat or dog. An applicant for a license for any such cat or dog shall present to the issuing officer a certification of inoculation against rabies signed by a licensed veterinarian, which certificate shall have been executed some time during the previous 36-month period if a three-year type of vaccine is used or 12-month period if a one-year type vaccine is used. In lieu thereof, if the holder of a kennel permit who owns such cat or dog has personally administered a rabies inoculation to the cat or dog, then prior to the issuance of a license, an affidavit shall be completed, signed and notarized at the police department attesting to the date of inoculation, the type of inoculation, and the length of inoculation. Such license shall be issued in the form of a tag valid for the period of January 1 through December 31 each year.

(b) The provisions of this section do not apply to owners who are nonresidents temporarily within the city for a period not to exceed 15 consecutive days, or who bring animals into the city for the purpose of participating in an animal show. Nor do the provisions of this section apply to owners of an animal properly and currently licensed by another municipality, except that this provision shall become void after the owner of the animal has lived in the city for a period of 30 calendar days. Nor do the provisions of this section apply to authorized/designated participants in the TNR program.

(c) Upon application, and presentation of the inoculation certificate, the city shall issue to the owner a license certificate and a metal tag, for each animal so licensed. The shape of the tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every owner shall provide each dog with a collar to which the license tag must be affixed and shall see that the collar and tag are worn at any time such animal is not on the owner's property. Owners of cats shall not be required to provide such animal with a collar, but any such cat picked up not wearing a collar and tag shall be treated as a stray. In case an animal tag is lost or destroyed, a duplicate shall be issued by the issuing officer upon presentation of the original certificate. Animal tags shall not be transferable from one animal to another.

(d) As authorized/designated by city council, animal control, and the local animal rescue group so designated, along with their volunteers, are allowed to carry out TNR.
(Code 1989, § 5-3; Ord. No. 10811, § 1(III), 3-21-1988; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-4. Kennel permits.

(a) No person shall operate a kennel without first obtaining a permit in compliance with this section. No permit shall be issued except for kennels which are to be operated in areas properly zoned for that purpose.

(b) The permit period shall run from January 1 to December 31 of every year. Renewal applications for permits may be made within 60 days prior to the expiration date. Application for a permit to establish a new breeding animal establishment under the provisions of this chapter may be made at any time.

(c) Annual permits shall be issued upon payment of the applicable fee:

(1) For each kennel authorized to house less than five dogs and/or cats;

(2) For each kennel authorized to house five, but not more than 49, dogs and/or cats;

(3) For each kennel authorized to house 50 or more dogs and/or cats.

(d) Every facility regulated by this chapter shall be considered a separate enterprise, requiring all individual permits.

(e) After an application is filed, the licensing authority shall inspect the facility prior to issuing the permit.
(Code 1989, § 5-4; Ord. No. 10811, § 1(IV)(A)—(D), (F), 3-21-1988; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-5. Denial of license or permit; reapplication restricted.

(a) If the applicant for a permit or license under this chapter has withheld or falsified any information on the application, the licensing authority shall refuse to issue a permit or license.

(b) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.

(c) Any person having been denied a license or permit may not reapply for a period of 30 days. Each reapplication shall be accompanied by a fee.
(Code 1989, § 5-5; Ord. No. 10811, § 1(IV)(I)—(K), 3-21-1988)

Sec. 8-6. Revocation of licenses or permits.

(a) The licensing authority may revoke any permit or license issued under this chapter if the person holding the permit or license refuses or fails to comply with this chapter, the regulations promulgated by the licensing authority, or any law governing the protection and keeping of animals.

(b) Any person whose permit or license is revoked shall, within ten days thereafter, make alternate arrangements for the humane care of the animals, or humanely dispose of all animals owned, kept, or harbored. No part of the permit or license fee shall be refunded.

(c) It shall be a condition of the issuance of any permit or license that the licensing authority shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for such inspection is refused, revoke the permit or license of the refusing owner.
(Code 1989, § 5-6; Ord. No. 10811, § 1(IV)(F)—(H), 3-21-1988)

Sec. 8-7. Animals in kennels to be kept under restraint and on premises.

Any animal housed in a kennel as outlined in section 8-4 shall be kept under restraint and on the owner's premises at all times.
(Code 1989, § 5-7; Ord. No. 10811, § 1(IV)(E), 3-21-1988)

Sec. 8-8. Private stables.

A private stable, as allowed under section 44-135, shall not be required to obtain either a license or a permit, but must adhere to all applicable sections of this chapter.

Sec. 8-9. Animals running at large.

(a) It shall be unlawful for the owner, or person in control, of any animal to let such animal run at large, whether licensed or not, at any time within the city. The provisions of this section do not apply to volunteers participating in the authorized/designated TNR program.

(b) No person shall aid or cause any animal to escape confinement or impoundment, upon the property of another, by opening a gate, door or window or making any opening of any fence, enclosure of structure, or by unleashing or releasing such animal.
(Code 1989, § 5-8; Ord. No. 10811, § 1(V), 3-21-1988; Ord. No. 11831, § II, 4-1-2008; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-10. Public nuisance animal.

It shall be unlawful for the owner, or person in control, of any animal to fail to exercise the proper care and control of the animal so as to prevent such animal from becoming a public nuisance animal.
(Code 1989, § 5-9; Ord. No. 10811, § 1(VI), 3-21-1988; Ord. No. 11831, § III, 4-1-2008)

Sec. 8-11. Vicious animals.

(a) It shall be unlawful for any person to keep or harbor within the city any vicious animal, knowing the same to be vicious, unless the following requirements are met:

(1) Except as hereinafter provided, all vicious animals shall be confined indoors in such a manner that will not allow such animal to exit the building or structure on its own volition.

(2) No person shall permit a vicious animal to go outside the building or structure in which it is confined unless such animal is muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals, and either:

a. Confined to a securely enclosed and locked pen or kennel with sides and a secure top attached to the sides; or

b. Securely leashed with a leash or lead no more than four feet in length, with the owner, owner's agent, or a member of the owner's immediate family in physical control of such leash or lead. Such animals may not be leashed, chained or tied to inanimate objects such as trees, posts, buildings, etc.

(3) All owners, keepers or harborers of vicious animals shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Vicious Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(b) The owner of any animal which attacks, bites or injures any human being or other domestic animal without adequate provocation shall, in addition to complying with the foregoing provisions, comply as follows: The owner of such animal must within seven days after the date of such incident provide proof to the police department of public liability insurance as required by the city's current limits established by the city's risk management policy. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the city clerk.
(Code 1989, § 5-10; Ord. No. 10811, § 1(VII), 3-21-1988; Ord. No. 11958, § 1, 3-21-2011)

Sec. 8-12. Disposition of attacking, biting, injuring animals.

(a) Any animal which attacks, bites or injures a human being or other domestic animal without adequate provocation, shall be taken up and impounded by the animal control officer at the animal shelter so designated by the city or licensed veterinarian of the owner's choice, for a period of ten days, the expense thereof to be borne by the owner of such animal.

(b) If the animal has proof of current rabies vaccination, and the victim of the attack, bite or injury requests, the animal control officer may allow the animal to be securely and safely housed with its owners for the duration of the ten-day observation period.

(c) If within such period of ten days the animal develops symptoms of rabies, then it shall be disposed of in a humane manner and taken to the county health department for examination.

(d) If the animal does not develop symptoms of rabies at the end of such ten-day period, then it may be returned to the owner upon payment of

boarding fees. The animal may be returned earlier if certified by a licensed veterinarian to be free of rabies. The provisions of this section do not apply to cats in the TNR program. Feral cats, covered by the TNR program, which attack, bite or injure a human being or other domestic animal without adequate provocation will not be returned to the program. These animals may be adopted by someone who will care for them in a non-urban environment, or they will be disposed of humanely.

(e) If the owner does not claim the animal within seven days after the expiration of such ten-day period, it shall be disposed of as provided for in this chapter.

(f) If, based on a public safety concern, the police department can show cause that any animal should not be released pursuant to subsection (d) of this section, the court may authorize that the animal be held until an action or disposition in court authorizes the release.

(g) If the owner, or person in control, of an animal is adjudicated as harboring a vicious animal, and the city can show cause that the release of the animal would create a continuing public safety hazard, the court may authorize that the animal be permanently removed from the city limits, or disposed of humanely.
(Code 1989, § 5-11; Ord. No. 10811, § 1(VIII), 3-21-1988; Ord. No. 11831, § IV, 4-1-2008; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-13. Rabies control—Generally.

(a) Every rabid animal or every animal exposed to rabies shall immediately be confined by the owner, who shall promptly notify the animal control officer. Thereafter, such animal shall be taken up and impounded by the animal control officer at the humane society animal shelter so designated by the city or licensed veterinarian of the owner's choice, for a period of ten days, the expense thereof to be borne by the owner of such animal.

(b) If within such period of ten days such animal develops symptoms of rabies, then it shall be disposed of in a humane manner and taken to the county health department for examination.

(c) If such animal does not develop symptoms of rabies at the end of such ten-day period, then it may be returned to the owner upon payment of boarding fees. Such animal may be returned earlier if certified by a licensed veterinarian to be free of rabies. The provisions of this section do not apply to cats in the TNR program. Feral cats, covered by the TNR program, which attack, bite or injure a human being or other domestic animal without adequate provocation will not be returned to the program. These animals may be adopted by someone who will care for them in a non-urban environment, or they will be disposed of humanely.

(d) If the owner does not claim such animal within seven days after the expiration of such ten-day period, it shall be disposed of as provided for in this chapter.
(Code 1989, § 5-12; Ord. No. 10811, § 1(IX), 3-21-1988; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-14. Rabies control—Mayor's proclamation.

It shall be the duty of the mayor, whenever in the mayor's opinion the danger to the public safety from rabid dogs or cats is great and imminent, to publish a proclamation ordering and requiring all persons owning, keeping or harboring any dog or cat to securely muzzle or confine the same, for the period prescribed in the proclamation, and all dogs or cats not muzzled or so confined during such periods shall be presumed to be an abandoned or unowned animal.
(Code 1989, § 5-13; Ord. No. 10811, § 1(XII), 3-21-1988)

Sec. 8-15. Impoundment.

(a) Animals not licensed pursuant to this chapter or found not under restraint or abandoned, may be picked up and impounded by any police officer or animal control officer. Impoundment shall be in the animal shelter, or in any animal shelter designated by the city, provided that such shelter is built and equipped to care for the animals in a humane manner. An ear tipped feral cat received by animal control, police officer, or local shelter (if they so approve) will be returned to a representative of the TNR program,

if immediate veterinary care is required, unless they are in violation of some other provision of this chapter. Otherwise an ear tipped cat trapped, or caught by animal control or a police officer, shall be released on site.

(b) If the animal wears a tag, or if the owner can by any other reasonable means be identified and located, the owner shall be notified by the animal control officer as soon as possible that the animal has been impounded.

(c) If the animal is not redeemed by the owner within seven days after impoundment, the animal may be disposed of in one of the following ways, but no other way:

(1) Euthanasia, using a method acceptable to the American Veterinary Medical Association;

(2) Release for adoption by a new owner who shows evidence of ability and intention to provide the animal with an appropriate home and humane care, provided that no unspayed female dog or cat shall be released for adoption unless the spaying fee has been paid and a certificate issued by a licensed veterinarian certifying that the fee has been paid and that the dog or cat will be brought in for spaying within five days, or if too young that it will be brought in for spaying at the age of six months.

(d) The city-designated animal shelter may establish an impoundment or adoption fee, and may also charge a boarding fee for any animal impounded, to be paid upon redeeming or adopting an animal. The city shall make available at the animal shelter, an information sheet outlining this chapter and any other information regarding the licensing of animals. A copy of such sheet shall be made available to every person redeeming or adopting such an animal.

(e) The intent of this chapter is to require animal owners to comply with the law, not merely to operate an impoundment program. Police officers and the animal control officers shall, therefore, place primary emphasis upon education/compliance, apprehending and initiating prosecution of violators.

(f) Volunteer participants, in the designated TNR program, are empowered to reclaim impounded feral cats without proof of ownership. (Code 1989, § 5-14; Ord. No. 10811, § 1(X), 3-21-1988; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-16. Limitations on number of animals.

No person shall, at any time, keep, harbor, or own, at one location within the city, more than five dogs or cats or any combination of the two totaling five over the age of six months. This provision shall not apply to a lawfully licensed commercial kennel, a kennel maintained in conjunction with a small animal hospital, or to cats in an approved TNR program.
(Code 1989, § 5-15; Ord. No. 10811, § 1(XI), 3-21-1988; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-17. Animal care.

(a) No owner, or person in control, of any animal, shall fail to provide the owner's animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter space and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. Provision of this section does not apply to humane participation in the TNR program.

(b) All structures, pens or yards wherein animals are kept or permitted to be shall be maintained in a clean and sanitary condition at all times, devoid of all rodents and vermin and free from offensive or noxious smell or odor to the injury or annoyance of any inhabitant of the neighborhood.

(c) No person shall beat cruelly, ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(d) No owner, or person in control of any animal, shall abandon such animal. Provision of this section does not apply to humane participation in the TNR program.

(e) No person shall crop a dog's ears or dock a dog's tail, except when such procedure is performed by a licensed veterinarian.

(f) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contest, game, or other competition, as an inducement to enter a place of amusement, or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(g) Any person who, as the operator of a motor vehicle, strikes a domestic animal, shall stop at once and render such assistance as may be possible, and shall immediately report such injury or death to the animal control officer, and to the animal's owner. If the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

(h) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be likely to be eaten by any animal, provided it shall be lawful for a person to expose on any property common rat poison mixed only with vegetable substance and in a bait station.

(i) No person shall leave an animal in an unattended vehicle either without adequate ventilation or in any manner which subjects the animal to extreme temperatures that are dangerous or detrimental to the animal's health or welfare.

(Code 1989, § 5-16; Ord. No. 10811, § 1(XIII), 3-21-1988; Ord. No. 11831, § V, 4-1-2008; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-18. Animal waste.

The owner, or person in control, of every animal shall be responsible for the removal of any excreta deposited by the animal on public walks, recreation areas, the public right-of-way, or private property. Provision of this section does not apply to humane participation in the TNR program.

(Code 1989, § 5-17; Ord. No. 10811, § 1(XIV), 3-21-1988; Ord. No. 11831, § VI, 4-1-2008; Ord. No. 12167, § I, 8-17-2015)

Sec. 8-19. Enforcement.

(a) It shall be unlawful for any person to fail to comply with the terms of this chapter, or to interfere with an animal control officer or police officer in the enforcement of these provisions.

(b) Any animal found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment.

(c) Any person violating or permitting the violation of any of the provisions of section 8-10 pertaining to vicious animals shall, upon conviction, be fined not less than $200.00 nor more than $500.00 for each violation or confined for a period of not more than 90 days or punished by both such fine and imprisonment. In addition, the court shall order the license of the subject animal revoked, and the animal removed from the city. Should the defendant refuse to remove the animal, the court shall find the defendant in contempt, and order the immediate confiscation and impoundment of the animal.

(d) Any person violating or permitting the violation of any other provision of this chapter shall, upon conviction, be fined not less than $50.00 nor more than $500.00 for each violation or confined for a period of not more than 90 days or punished by both such fine and imprisonment.

(e) In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter.

(f) Except with respect to knowingly keeping or harboring a vicious animal, violations of this chapter shall not require any particular state of mind on the part of the defendant, it being the intent to make all such violations of this chapter strict liability offenses.

(Code 1989, § 5-18; Ord. No. 10811, § 1(XV), 3-21-1988; Ord. No. 12167, § I, 8-17-2015)

Secs. 8-20—8-39. Reserved.

ARTICLE II. DANGEROUS AND RESTRICTED ANIMALS

Sec. 8-40. Dangerous animals.

(a) *Keeping prohibited.* No person shall keep, shelter, or harbor for any purpose within the city a dangerous animal except as provided in subsection (c) or (g) of this section.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous animal.

(1) The term "dangerous animal" means:

a. Any animal or reptile which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

b. Any animal declared to be dangerous by the city council.

(2) The following animals shall be deemed to be dangerous animals:

a. Lions, tigers, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;

b. Wolves, coyotes and foxes;

c. Badgers, wolverines, weasels, and skunks;

d. Raccoons;

e. Bears;

f. Monkeys, chimpanzees, and other primates;

g. Alligators, crocodiles, or any related species;

h. Venomous snakes;

i. Constrictor snakes longer than eight feet;

j. Gila monsters;

k. Piranhas and sharks in excess of six inches in length;

l. Any crossbreed of such animals or reptiles which have similar characteristics to the animals or reptiles specified above.

(c) *Exceptions to subsection (a) of this section.* The prohibition contained in subsection (a) of this section shall not apply to the keeping of dangerous animals in the following circumstances, but all other sections shall still apply:

(1) The keeping of dangerous animals in a public zoo, public aquarium, and bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.

(2) The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show licensed to perform in the city.

(3) The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

(4) The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the state conservation commission.

(5) Any dangerous animals under the jurisdiction of and in the possession of the state conservation commission.

(6) The transport, entry and display of a dangerous animal at an approved animal show when properly confined in a locked cage or on a leash and muzzle, and personally restrained by a handler or owner of the animal.

(7) Any dangerous animal whose owner meets the requirements of, and gains the approvals required in, subsection (g) of this section.

(d) *Regulation of keeping dangerous animals.*

(1) Every person, firm or corporation keeping, sheltering, or harboring a dangerous animal as permitted under subsections (c) and (g) of this section shall at all times keep such animal from biting or attacking persons or other animals and be either:

a. Confined to a securely enclosed and locked cage, pen, or kennel with sides and a secure top attached to the sides;

b. Securely leashed with a leash or lead no more than four feet in length, with the owner, owner's agent, or a member of the owner's immediate family in physical control of such leash or lead. Such animals may not be leashed, chained, or tied to inanimate objects such as trees, posts, buildings, etc.; or

c. Meet the special requirements stated in a written permit for the animal allowed in subsection (g) of this section.

(2) No person, firm or corporation owning, keeping, sheltering, or harboring a dangerous animal as permitted under subsection (c) or (g) of this section shall permit or allow such animal to enter upon, be placed in, or traverse any public property, park property, public right-of-way, public waterway, or lagoon, or public sewer system, or any business establishment licensed by the city, or the property of another, except when such animal is being transported while caged or confined.

(3) It shall be the duty of the persons permitted to keep dangerous animals under subsection (c) or (g) of this section to immediately report to the police department when any dangerous animal is found missing.

(e) *Escape; general prohibition and duty.* No person shall aid or cause any dangerous animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment is upon such person's property or that of another, by opening any gate, door or window or making any opening of any fence, enclosure of structure, or by unleashing or releasing such animal.

(f) *Seizure, impoundment and disposition of dangerous animals.*

(1) In the event that a dangerous animal is found at large on public or private property, such animal may be destroyed if, in the discretion of the law enforcement officer or designee, such animal presents an imminent danger to the safety of any person, or other animals. The city shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

(2) If a law enforcement officer or designee determines that a person is keeping, harboring, or sheltering a dangerous animal, in violation of city ordinance, then such person shall be ordered to safely remove such animal from the city, permanently place the animal with an organization or group allowed under subsection (c) of this section to possess dangerous animals, or destroy the animal at any time after an appeal time period has expired. Notice of such order shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, by being served personally or by first-class mail or by posting to the front door of the last-known address. After any appeal period has expired, law enforcement personnel or their designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

(3) Any person who is cited or given a ticket and ordered to remove a dangerous animal from the city may plead their case in municipal court. However, the animal shall be removed from the city until such time as the order may be reversed by the municipal court judge. A finding of guilty in municipal court may be appealed to the county circuit court, if the appeal is filed within ten days of the finding in municipal court.

(4) If the original removal order of law enforcement personnel, or their designee, is not complied with within three days of the order, a law enforcement officer or designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded

pending any municipal court arraignment, or appeal to the circuit court. If the order to remove the animal is affirmed upon conviction, or on conviction after appeal to the circuit court, then at the end of the impoundment period, law enforcement personnel, or designee, may allow the animal to be placed with an organization or group allowed under subsection (c) of this section to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees and fees incurred for the care of the dangerous animal shall be at the expense of the owner of the dangerous animal.

(5) The owner of the dangerous animal may claim the animal upon showing proof of ownership, payment of all impound and veterinary fees, and agreement to immediately remove the animal from the city upon taking possession of the animal. In the event the owner does not claim the animal, a law enforcement officer or designee may allow the humane society to cause such animal to be permanently placed with an organization or group allowed under subsection (c) of this section to possess dangerous animals, or shall destroy such animal in a humane manner.

(g) *Exception.*

(1) Dangerous animals residing in the city on or after April 1, 2011, may be considered for an exception of the prohibition. Any application to be considered as an exception must be submitted to the police chief or to the code enforcement director within 30 days of the passage of the ordinance from which this article is derived. The application approval or denial will be determined by the animal's conformance with the following attributes and characteristics:

a. The avoidance of or likelihood of the animal escaping;

b. The size of the animal in comparison to humans/children;

c. The nature of the animal; the animal may not be naturally tame, but has been domesticated to the extent that it is tame or gentle;

d. The animal does not have the propensity to kill;

e. Past behavioral history of the individual animal, if any.

(2) The police chief and the code enforcement director of the city will determine within 30 days of receipt of the application whether the request for exception is approved or denied based on the above criteria. There is no appeal of their decision. If the exception is approved, additional safety confinements or rules may be imposed that are in addition to that used for pit bull dogs. Insurance and registration or other standards may be required, and if so, will be stated in the permit that would be issued.

(Code 1989, § 5-19; Ord. No. 11957, § 1, 3-21-2011)

Sec. 8-41. Restricted animals.

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

Pit bull dog means:

(1) Staffordshire Bull Terrier breed of dog;

(2) American Pit Bull Terrier breed of dog;

(3) American Staffordshire Terrier breed of dog;

(4) Any mixed breed of dog, which contains as an element of its breeding, the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier;

(5) Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire Bull Terrier,

American Pit Bull Terrier, American Staffordshire Terrier; and other breeds commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a combination of any of these breeds.

Restricted animal means pit bull dogs four months of age or older.

(b) *Standards for keeping pit bull dogs.* Pit bull dogs residing in the city on or after April 1, 2011, may only be kept by their owners within the city, subject to the following standards:

(1) *Registration.* Pit bull dogs currently residing in the city must be registered with the city by the owner within 60 days of April 1, 2011. Annual registration of any pit bull dog is required. Any pit bull dog four months of age or older must be registered.

(2) *Leash.* No person shall permit a pit bull dog to go outside of a securely enclosed fenced yard unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its securely enclosed fenced yard unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc.

(3) *Confinement outdoors.* All pit bull dogs shall be confined in a securely enclosed fenced yard, except when leashed as provided in subsection (b)(2) of this section. Such fence must have secure sides and be at least 60 inches in height. All gates in fenced yards used to confine pit bull dogs must be locked with a key, or combination lock, when such animals are within the fenced area. All fencing erected to house pit bull dogs must comply with all zoning and building regulations of the city.

(4) *Confinement indoors.* No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(5) *Insurance.* All owners, keepers, or harborers of pit bull dogs must provide proof to the city of public liability insurance for a single incident as required by the city's current limits established by the city's risk management policy. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the city. Any person found to be the owner, keeper, or harborer of a pit bull dog that does not have insurance on the same, and is found guilty in municipal court or any other court of this violation, must permanently remove the animal from the city.

(6) *Certification.* Owners of pit bull dogs, whose dogs are registered as required in subsection (b)(1) of this section, who can show proof of current certification for their pit bull dogs from the American Kennel Club Canine Good Citizen (AKC CGC) Program to the city police department will be exempted for so long as the AKC CGC certification remains valid from subsections (b)(3) and (5) of this section.

(7) *Irrefutable presumptions.* There shall be an irrefutable presumption that any dog registered with the city as a pit bull dog, or any of those breeds that are restricted under the definition of the term "pit bull dog," is in fact a dog subject to the requirements of this section.

(c) *Escape; general prohibition and duty.* No person shall aid or cause any restricted animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment is upon such person's property or that of another, by opening

any gate, door or window or making any opening of any fence, enclosure of structure, or by unleashing or releasing such animal.

(d) *Seizure, impoundment and disposition of restricted animals.*

(1) In the event that a restricted animal is found at large on public or private property, such animal may be immediately confined and the owner or person in charge of the dog will be cited for an ordinance violation. If the owner or person cited for the violation is found guilty of the ordinance violation, the dog must be removed from the city or taken to the city's contract shelter for adoption or to be destroyed. The animal may not be given to another person in the same family, unless it is adopted through the shelter.

(2) The city shall be under no duty to attempt the confinement or capture of a restricted animal found at large. The animal may be destroyed if, in the discretion of the law enforcement officer or designee, such animal presents an imminent danger to the safety of any person or other animals. The city shall not have a duty to notify the owner of such animal prior to its destruction.

(3) If it is determined that the restricted animal identified in subsection (d)(1) of this section did not cause harm to any person or damage to any property, that restricted animal will not be removed from its home as outlined in subsection (d)(1) of this section.

(4) If a law enforcement officer, or designee, determines that a person is keeping, harboring, or sheltering a restricted animal in violation of city ordinance, then such person shall be ordered to safely remove such animal from the city, or the animal shall be taken to the city's contract shelter for adoption, or the animal shall be destroyed, at any time after an appeal time period has expired. The animal may not be given to another person in the same family, unless it is adopted through the shelter. Notice of such order shall be given in writing to the person keeping, sheltering or harboring the restricted animal, by being served personally or by first-class mail, or by posting to the front door of the last-known address. After any appeal period has expired, law enforcement personnel or their designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

(5) Any person who is cited or given a ticket and ordered to remove a restricted animal from the city may plead their case in municipal court. However, the animal shall be removed from the city until such time as the order may be reversed by the municipal court judge. A finding of guilty in municipal court may be appealed to the county circuit court, if the appeal is filed within ten days of the finding in municipal court.

(6) If the original removal order of law enforcement personnel or their designee is not complied with within three days of the order, a law enforcement officer, or designee, is authorized to seize and impound such restricted animal. An animal so seized shall be impounded pending any municipal court arraignment, or appeal to the circuit court. If the order to remove the animal is affirmed upon conviction or on conviction after appeal to the circuit court, then at the end of the impoundment period, law enforcement personnel or their designee may allow the city's contract shelter to cause the animal to be adopted by another person, or to destroy such animal in a humane manner. All impoundment fees and fees incurred for the care of the restricted animal shall be at the expense of the owner of the restricted animal.

(7) The owner of the restricted animal may claim the animal upon showing proof of ownership, payment of all impound and veterinary fees, and agreement to

immediately remove the animal from the city upon taking possession of the animal. In the event the owner does not claim the animal within seven days, a law enforcement officer, or designee, may allow the city's contract shelter to cause such animal to be permanently placed with another person who would agree to harbor the animal under the laws of current city ordinances.

(8) When a law enforcement officer, or designee, determines that an animal is classified as a restricted animal by virtue of being a pit bull, and the owner disputes the classification, it shall be the owner's responsibility to provide positive proof by documentation or other means to the law enforcement officer, or designee, that the animal is not a pit bull as defined herein. If, notwithstanding such proof, the law enforcement officer, or designee, continues to determine that the animal is a pit bull, the owner will be cited for an ordinance violation, and then may appeal the animal's classification by purchasing a DNA test from the city. The owner will be required to pay the fee up front for the DNA test. The owner will need to bring the dog to the police department or provide access for law enforcement to do a swab sample of the dog. The results will be sent to an approved lab and results sent back. If the animal has any of the breeds in its lineage that are defined as pit bull dogs, it is a pit bull dog. If results show that the animal does not have pit bull dog lineage, the dog would not have to be removed from the city under the restricted animal ordinance. If the owner disputes the results of the DNA testing of the animal, they have the right to contest any citation received, in the circuit court of the county. However, the animal shall be removed from the city until such time as the classification is reversed by the court.

(e) *Failure to comply.* It shall be unlawful for the owner, keeper, or harborer of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be confined and removed from the city as in subsection (d)(2) of this section.

(Code 1989, § 5-20; Ord. No. 11957, § 1, 3-21-2011)

Sec. 8-42. Fees and penalties.

(a) Any person violating or permitting the violation of any of the provisions of section 8-40 or 8-41 pertaining to dangerous or restricted animals shall, upon conviction, be fined not less than $200.00, nor more than $500.00 for each violation, or confined for a period of not more than 90 days, or punished by both such fine and imprisonment. In addition, the court shall order the license of the subject animal revoked, and the animal destroyed or removed from the city, and the removal of any other dangerous or restricted animals in the owner's possession. Should the defendant refuse to remove the animal, the court shall find the defendant in contempt, and order the animal to be immediately destroyed, confiscated, or impounded.

(b) In addition to the foregoing penalties, any person who violates section 8-40 or 8-41 shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of section 8-40 or 8-41.

(Code 1989, § 5-21; Ord. No. 11957, § 1, 3-21-2011)

Chapter 9

RESERVED

Chapter 10

BUILDINGS AND CONSTRUCTION

Article I. In General

Article II. Building Code

Article III. Electrical Code

Article IV. Existing Building Code

Article V. Mechanical Code

Article VI. One- and Two-Family Dwelling Code

Article VII. Plumbing Code

Article VIII. Concrete Construction

Article IX. Fire Prevention Code

Article X. Property Maintenance Code

Article XI. Fuel Gas Code

Article XII. Energy Conservation Code

Article XIII. Additional Building Requirements

ARTICLE I. IN GENERAL

Sec. 10-1. Effect of conflicting regulations.

Should it be found that any of the provisions, restrictions, specifications, regulations, penalties and terms of the codes adopted in this chapter are inconsistent with any other codes, ordinances, city code sections or acts adopted by the city, then the most restrictive provision, restriction, specification, regulation, penalty or term shall prevail.
(Code 1989, § 6-1; Ord. No. 10726, § 13, 8-4-1986; Ord. No. 10899, § 15, 1-15-1990)

Secs. 10-2—10-20. Reserved.

ARTICLE II. BUILDING CODE

Sec. 10-21. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Building Code, as published by the International Code Council, Inc., is hereby adopted as the building code of the city. Each and all of the regulations, provisions, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1974, § 4-16; Code 1989, § 6-16; Ord. No. 10726, § 1, 8-4-1986; Ord. No. 10899, § 1, 1-15-1990; Ord. No. 11280, § 1, 1-20-1997; Ord. No. 11619, § 1, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-22. Amendments.

The following sections of the International Building Code adopted in section 10-21 are hereby revised as follows:

(1) *Section 101.1.* Insert "City of Kirksville, Missouri."

(2) *Section 1608.2.* Amend, after CS in Figure 1608.2 "Ground snow loads for Kirksville, Missouri, shall be 25 pounds per square foot."

(3) *Section 1612.3.* Insert "City of Kirksville" and "February 4, 1981, respectively.

(Code 1974, § 5-2; Code 1989, § 6-17; Ord. No. 10726, § 2, 8-4-1986; Ord. No. 10805, § 1, 1-18-1988; Ord. No. 10899, § 2, 1-15-1990; Ord. No. 10967, §§ 1—3, 12-17-1990; Ord. No. 11064, § 1, 12-21-1992; Ord. No. 11280, § 2, 1-20-1997; Ord. No. 11383, § 1, 4-19-1999; Ord. No. 11474, § 1, 11-6-2000; Ord. No. 11556, § 1, 3-18-2002; Ord. No. 11619, § 2, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12126, § 1, 9-15-2014; Ord. No. 12147, § 1, 3-2-2015; Ord. No. 12190, § 1(2), 1-4-2016)

Secs. 10-23—10-47. Reserved.

ARTICLE III. ELECTRICAL CODE

Sec. 10-48. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2014 National Electrical Code, International Electrical Code Series, as published by the National Fire Protection Association, is hereby adopted as the electrical code of the city. Each and all of the regulations, provision, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1974, § 5-6; Code 1989, § 6-31; Ord. No. 10726, § 5, 8-4-1986; Ord. No. 10899, § 5, 1-15-1990; Ord. No. 11280, § 5, 1-20-1997; Ord. No. 11619, § 5, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-49. Administrative provisions.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as appendix K administrative provisions of the 2015 International Building Code, as published by the International Code Council, Inc., is hereby adopted as the administrative provisions to the electrical code of the city. Each and all of the regulations,

provision, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1989, § 6-32; Ord. No. 11619, § 6, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(2), 1-4-2016)

Secs. 10-50—10-71. Reserved.

ARTICLE IV. EXISTING BUILDING CODE

Sec. 10-72. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Existing Building Code, as published by the International Code Council, Inc., is hereby adopted as the existing building code of the city. Each and all of the regulations, provisions, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1989, § 6-46; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-73. Amendments.

The following section of the International Existing Building Code adopted in section 10-72 is hereby revised as follows:

(1) *Section 101.1.* Insert "City of Kirksville."
(Code 1989, § 6-47; Ord. No. 12190, § 1(2), 1-4-2016)

Secs. 10-74—10-104. Reserved.

ARTICLE V. MECHANICAL CODE

Sec. 10-105. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Mechanical Code, as published by the International Code Council, Inc., is hereby adopted as the mechanical code of the city. Each and all of the regulations, provisions, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1974, § 5-8; Code 1989, § 6-66; Ord. No. 10726, § 7, 8-4-1986; Ord. No. 10899, § 7, 1-15-1990; Ord. No. 11280, § 7, 1-20-1997; Ord. No. 11619, § 10, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-106. Amendments.

The following sections of the International Mechanical Code adopted in section 10-105 are hereby revised as follows:

(1) *Section 101.1.* Insert "City of Kirksville."

(2) *Section 106.5.2.* Insert "See City of Kirksville Exhibit A Fee Schedule."

(3) *Section 108.4.* Insert "an ordinance violation" and "$500.00" and "90 days," respectively.

(Code 1974, § 5-9; Code 1989, § 6-67; Ord. No. 10726, § 8, 8-4-1986; Ord. No. 10899, § 8, 1-15-1990; Ord. No. 11280, § 8, 1-20-1997; Ord. No. 11474, § 3, 11-6-2000; Ord. No. 11619, § 11, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12147, § 2, 3-2-2015)

Secs. 10-107—10-125. Reserved.

ARTICLE VI. ONE- AND TWO-FAMILY DWELLING CODE

Sec. 10-126. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Residential Code (for one- and two-family dwellings), as published by the International Code Council, Inc., is hereby adopted as the one- and two-family dwelling code of the city. Each and all of the regulations, provisions, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1974, § 5-7; Code 1989, § 6-86; Ord. No. 10726, § 6, 8-4-1986; Ord. No. 10899, § 6,

1-15-1990; Ord. No. 11280, § 6, 1-20-1997; Ord. No. 11619, § 8, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-127. Amendments.

The followings sections of the International Residential Code adopted in section 10-126 are hereby revised as follows:

(1) *Section R101.1.* Insert "City of Kirksville."

(2) *Table R301.2(1).*

Insert ground snow load = 25

Wind design speed (mph) = 90

Wind design topographic effects = No

Insert wind design special wind region = No

Insert wind design wind-borne debris zone = No

Seismic design category = B

Insert subject to damage from weathering = Severe

Insert subject to damage from frost line depth = 48 inches

Insert subject to damage from termite = Moderate to heavy

Insert winter design temp = Zero degrees Fahrenheit

Flood Hazards =	(a) March 16, 1987
	(b) February 4, 1981
	(c) Panel numbers: 290002 0001 B; 290002 0002 B; 290002 0003 B; 290002 0004 B; 290002 0005 B
	Panel dates: all are February 4, 1981

Ice barrier underlayment required = No

Air freezing index = 1,250

Mean annual temperature = 51 degrees Fahrenheit

(4) *Section P2603.5.1.* Insert "48 inches" and "48 inches unless unable to gravity flow to main, a minimum of 12 inches is required," respectively.

(Code 1989, § 6-87; Ord. No. 11474, § 4, 11-6-2000; Ord. No. 11619, § 9, 5-19-2003; Ord. No. 11785, § 1, 1-17-2007; Ord. No. 11786, § 2, 2-7-2007; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12126, § 1, 9-15-2014; Ord. No. 12164, § 1, 8-3-2015; Ord. No. 12190, § 1, 1-4-2016)

Secs. 10-128—10-152. Reserved.

ARTICLE VII. PLUMBING CODE

Sec. 10-153. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Plumbing Code," as published by the International Code Council, Inc., is hereby adopted as the plumbing code of the city. Each and all of the regulations, provisions, penalties, conditions and terms thereof are hereby adopted and made a part of this article as if fully set out herein.

(Code 1974, § 5-4; Code 1989, § 6-106; Ord. No. 10726, § 3, 8-4-1986; Ord. No. 10899, § 3, 1-15-1990; Ord. No. 11280, § 3, 1-20-1997; Ord. No. 11619, § 3, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-154. Amendments.

The following sections of the plumbing code adopted in section 10-153 are hereby revised as follows:

(1) *Section 101.1.* Insert "City of Kirksville, Missouri."

(2) *Section 106.6.2.* Insert "City of Kirksville Exhibit A Fee Schedule."

(3) *Section 108.4.* Insert "an ordinance violation" and "$500.00" and "90 days," respectively.

(4) *Section 305.4.1.* Insert "48 inches" and "48 inches unless unable to gravity flow to main, then a minimum of 12 inches is required," respectively.

(5) *Section 903.1* Insert "12 inches."
(Code 1974, § 5-5; Code 1989, § 6-107; Ord. No. 10726, § 4, 8-4-1986; Ord. No. 10899, § 4, 1-15-1990; Ord. No. 11280, § 4, 1-20-1997; Ord. No. 11474, § 5, 11-6-2000; Ord. No. 11619, § 4, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12147, § 3, 3-2-2015; Ord. No. 12190, § 1(2)—(4), 1-4-2016)

Secs. 10-155—10-176. Reserved.

ARTICLE VIII. CONCRETE CONSTRUCTION

Sec. 10-177. 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:

Driveway means an area intended for the operation of private automobiles and other vehicles from the lot line to a garage, approved parking area, building entrance, structure or approved use located on the property.

Driveway approach means an area intended for the operation of private automobiles and other vehicles giving access between a street edge and abutting lot line.
(Ord. No. 12277, § 2(6-120), 4-16-2018)

Sec. 10-178. Administrative authority.

(a) The following specifications shall become the city's code for concrete construction within the city limits.

(b) Individual job specifications shall be followed provided the requirements for concrete construction do not fall below the requirements contained in this article.

(c) The building inspector or any personnel authorized by the inspection department shall make inspections.

(d) Inspection requests shall be called in by the party setting the forms.

(e) Notification for inspection requests shall be made 24 hours previous to concrete placement. Failure to meet this requirement shall result in prosecution.

(f) Plant inspections, slump checks and cylinder breaks shall be made on a periodic basis. Test cylinders shall be made by the contractor as directed by the building inspector. Any tests required by the building inspector shall be at the expense of the contractor and performed by an approved testing facility. Failure to meet these requirements will be justifiable cause to reject concrete or prosecute any party who violates this article.
(Code 1974, § 5-10; Code 1989, § 6-121)

Sec. 10-179. Concrete mix design.

(a) *Materials.*

(1) Portland cement shall conform to ASTM Standard Specifications for Portland Cement, C150-62, type I.

(2) High-early-strength Portland cement shall conform to ASTM Standard Specifications for Portland Cement, C150-62, type III.

(3) Aggregates for concrete shall conform to ASTM Tentative Specifications for Concrete Aggregates, C33-61T or lightweight aggregate C330-60T.

(4) Air-entrainment may be accomplished by the use of type 1A cement, or an ASTM-approved agent added to the mixer. Air-entrainment shall be 5.5 percent +/- 1.5 percent as determined by the ASTM Designation C138-44. All exterior exposed concrete work shall be air-entrained.

(b) *Tests.*

(1) Air-entrainment 5.5 percent +/- 1.5 percent.

(2) Slump for hand placed concrete shall not exceed five inches. When high-frequency vibrator is used the slump shall not exceed four inches.

(3) Test cylinders submitted for compressive strength test shall be sets of three cylinders: one to be broken at seven days and two to be broken at 28 days. Twenty-eight-day breaks shall not be less than 3,000 p.s.i.

(4) Aggregate gradation shall be as follows:

a. Gradation for fine aggregate:

1. Passing three-eighths inch sieve: 100 percent.
2. Passing no. 4 sieve: 95 to 100 percent.
3. Passing no. 20 sieve: 40 to 75 percent.
4. Passing no. 50 sieve: five to 30 percent.
5. Passing no. 100 sieve: Zero to ten percent.

b. Gradation for course aggregate:

1. Passing one inch sieve: 100 percent.
2. Passing three-quarter inch sieve: 90 to 100 percent.
3. Passing three-eighths inch sieve: 15 to 45 percent.
4. Passing no. 4 inch sieve: Zero to five percent.
5. Percent of shale must not exceed one percent by weight.
6. Percent of chert must not exceed four percent by weight.

(5) State-approved mix shall be acceptable so long as copies are submitted to the city inspection department at city hall. It shall be the contractor's responsibility to submit approved design mixes to the inspection department prior to placing concrete.

(6) Approved admixture may be used; however, no less than a 5½-bag mix may be accepted.

(7) Additional test cylinders may be required to be cured under same conditions (protection, etc.) as freshly placed concrete. These test cylinders shall be broken as an indication as to whether proper protection was accomplished during low ambient temperature periods.

(8) In the event that any portion of a project is rejected, the contractor may, at the contractor's own expense, hire a certified testing laboratory to conduct additional tests. If the tests result in the certification (signed and sealed) by the testing laboratory that the structure is sound, then the city shall be liable to the contractor for the expense of the laboratory tests.

(Code 1974, § 5-11; Code 1989, § 6-122)

Sec. 10-180. Subgrade preparation for building construction.

(a) Subgrades for concrete construction shall be evenly graded to provide a uniformly firm foundation. All loose or extraneous material shall be removed from excavations and soft spots in the subgrade shall be corrected before the concrete is placed.

(b) Whenever concrete is placed on fill, the entire fill beneath the concrete shall be compacted as specified by the building inspector who is authorized to require acceptable soil compaction test. It should be recognized that the degree of compacting specified must be that required to obtain a stable fill (one that will not be subject to detrimental shrinkage or expansion under varying moisture conditions) and adequate to support the loads it must bear. The following comments are of a general nature and when unusual soils (especially expansive soils) are encountered, the degree of compaction to be specified should be determined after proper soil analyses have been made:

(1) *Nonexpansive soils.* Fills of such soils generally should be compacted to at least 95 percent of maximum density as determined by AASHO T-99 or ASTM D-698. Adequate compaction can usually be obtained when the moisture content of the soils is within a range of three percent below to three percent above optimum moisture for maximum density at the time of compaction.

(2) *Expansive soils.* Fills of such soils normally encountered in the city area generally should be compacted to a minimum of 90 percent but not in excess of 95 percent of maximum density as determined by AASHO T-99 or ASTM D-698. Relatively stable fills usually can be obtained when the minimum moisture content at time of compaction is in excess of three percent above optimum moisture for maximum density. This moisture content should be maintained in the top 12 inches of fill until covered by concrete.

(3) *Granular soils.* Fills consisting of sand, gravel or crushed stone should be compacted to 100 percent of maximum density as determined by AASHO T-99 or ASTM D-698. Generally the moisture content is not as critical as when compacting clay or silt soils and may vary with the compactive equipment available. Vibratory equipment has proven the most suitable for compaction of granular materials.

(c) Over-excavation for slabs shall be corrected by replacing with well-graded crushed stone, with suitable soil, or with cement-stabilized soils mechanically compacted in not more than six-inch lifts to 95 percent of maximum density. For hand compaction, lifts shall not exceed four inches measured before compaction.

(d) Footing excavations shall be extended to undisturbed soil below the frost line and shall be level or stepped level increments.

(e) Footings shall not be placed on fill except as directed by the building inspector.

(f) Expansive soils may be treated with a cementitious or lime-type material for stabilization as designed and tested by a licensed geotechnical engineer.
(Code 1974, § 5-12; Code 1989, § 6-123)

Sec. 10-181. Placing concrete.

(a) *Generally.*

(1) Only those methods and arrangements of equipment shall be used which will reduce to a minimum any segregation of coarse aggregate from the concrete.

(2) Every consideration shall be given toward proper placement of all concrete and proper care of concrete after placement.

(3) Sufficient capacity of placing equipment and manpower shall be provided so that the work may be kept free from "cold" joints.

(4) Concrete shall be deposited into the forms or onto the grade as nearly as practicable to its final position and in such a manner that the concrete will completely fill the forms.

(5) The use of vibration as a method of moving concrete after placing shall not be allowed.

(6) Concrete placed on a slope shall begin at the lowest end of the slope and progress upward.

(7) No concrete that has partially hardened or has been contaminated by foreign materials shall be deposited on the work.

(8) Specified design slumps shall not be altered by workmen at the job site by the addition of water to the mix in order to compensate for a lack of proper placing equipment and personnel.

(9) Concrete shall not be placed on mud or frozen ground.

(10) Subgrades shall be wetted in advance of concrete placement.

(11) Care shall be taken to see that reinforcing steel or mesh has proper cover in accordance with design.

(12) Care shall be taken to see that all joint materials, dowels and embedded items remain true to line and grade.

(13) No mud or other foreign material shall be tracked into the concrete during placement operations.

(b) *Depositing.* Concrete shall be deposited without segregation as near to its final position as practicable.

(1) Concrete shall not be placed on frozen, muddy, or sponge base.

(2) All mud, freestanding water, debris and loose earth shall be removed prior to concreting.

(3) Footings shall be side formed by sound and stable earth or by assembled forms.

(4) Placing operations shall be conducted in such a manner as to eliminate sloughing of earth into the footing during concreting.

(c) *Vibrating.*

(1) Mechanical internal vibrators shall be used in all formed concrete work where possible.

(2) Systematic spacings (12 to 20 inches apart) of vibrator insertion shall be established to ensure that all concrete is thoroughly consolidated.

(3) Vibrators shall be inserted and withdrawn vertically with five- to 15-second vibration periods.

(4) Vibrators shall be inserted to a depth which will ensure penetration into previous lift.

(5) Form vibration or hand spading is required at points inaccessible to thorough internal vibration.

(6) At all times during vibrating operations standby vibrators shall be immediately available.

(d) *Strike-off.*

(1) Strike-off screeds shall be set to proper grade for all slab concreting. Grade tolerance for screeds shall not exceed one-eighth inch plus or minus in seven feet.

(2) Strike-off shall be accomplished by use of straight edge of adequate weight and length.

(3) Vibrating strike-off screeds, or other approved methods of strike-off, shall be used when concrete is under three inches and slab thickness is over four inches.

(4) Jitterbug shall not be used as a strike-off tool.

(e) *Underwater.*

(1) Any water flow shall be stabilized or controlled prior to placing concrete.

(2) Tremies shall be used in all cases unless otherwise approved by the inspector.

(3) Tremies shall be equipped with watertight valves or caps at the bottom.

(4) Once concreting is started the lower end of the tremie shall be kept submerged in fresh concrete at all times.

(Code 1974, § 5-13; Code 1989, § 6-124)

Sec. 10-182. Cold weather concreting specifications.

(a) *Concrete production.*

(1) Adequate equipment shall be provided for heating the concrete materials. No frozen materials or materials containing ice shall be used.

(2) At air temperatures below 40 degrees Fahrenheit and when the temperature is forecast to fall below 40 degrees Fahrenheit within the next 24 hours, the concrete shall be heated.

(3) When heated, the concrete temperature at time of delivery shall be not less than 50 degrees Fahrenheit, nor greater than 80 degrees Fahrenheit. It is recommended that the concrete be delivered as close as possible to a temperature of 70 degrees Fahrenheit.

(4) Heating of the concrete may be accomplished by heating the aggregates and/or mixing water. The cement must not come in contact with water having a temperature above 165 degrees Fahrenheit. In cases where the water temperature is above 165 degrees Fahrenheit the aggregates must be premixed with the water for one minute before adding the cement.

(5) Calcium chloride shall not be used in concrete mixes without written approval. Plants must be equipped to add calcium chloride in solution form not exceeding two percent of cement weight.

(b) *Placing and finishing.*

(1) No concrete shall be deposited on nor come into contact with frozen subgrade or forms and appurtenances containing ice or snow.

(2) Concrete surface temperature must not fall below 50 degrees Fahrenheit after placement.

(3) Slump of concrete at point of placement must not be greater than four inches for flat work nor greater than five inches for walls and columns.

(4) Heating of enclosures for flat slab finishing shall be accomplished by vented heating methods, never open flame methods.

(5) Finishing time shall be delayed in cold weather in order to properly finish the surface without bringing an excess of fines to the surface.

(6) Slabs shall be protected from wind to prevent loss of heat and rapid drying.

(c) *Protection.*

(1) When freezing temperatures may be expected during the curing period, suitable and adequate means and facilities shall be provided for maintaining the concrete surfaces at temperatures as follows:

a. Type I (normal) cement concrete: not less than 50 degrees Fahrenheit for five days or 70 degrees Fahrenheit for two days.

b. Type III (high-early-strength) cement concrete: 50 degrees Fahrenheit for three days or 70 degrees Fahrenheit for two days.

(2) Sudden cooling of protected concrete shall not be permitted. Protection provided shall remain in place for not less than four days after artificial heating is discontinued, during which time temperature of the concrete shall not be permitted to fall below 40 degrees Fahrenheit.

(3) Newly constructed flat work shall be covered and protected from exposure to rain, sleet and ice for a minimum of 14 days in cold weather.

(4) Methods of protecting concrete shall be subject to approval of the city engineer or the inspection department of the city.

(5) Insulated forms may be used for the protection of concrete, provided that the internal concrete temperature shall not exceed 130 degrees Fahrenheit between initial and final set. Upon completion of protection period, sudden cooling will not be permitted. (See subsection (c)(2) of this section.)

(6) During the entire cold weather protection period, adequate means shall be provided to prevent loss of moisture from the concrete surface.

(Code 1974, § 5-14; Code 1989, § 6-125)

Sec. 10-183. Hot weather concreting specifications.

(a) Concrete placing and finishing operation during hot weather shall be done as quickly as possible. Ample personnel shall be available to handle and place the concrete immediately after its mixing or delivery at the site of the work. Concrete shall be placed in layers thin enough, and over areas small enough, to ensure complete bond and union of adjacent layers and thus, prevent cold joints.

(b) At air temperatures of 80 degrees Fahrenheit or above, the following precautions shall be taken:

(1) In no case shall the temperature of the concrete exceed 80 degrees Fahrenheit when placed in the work.

(2) Every effort shall be made to obtain cool mixing water and to keep it cool by adequate protection of pipes and storage tanks. Water supply lines shall be shaded, insulated or buried.

(3) Stockpiled aggregates shall be saturated and kept surface moist by continuous fog spray or by intermittent sprinkling.

(4) Forms, reinforcements and subgrade surfaces shall be wet-down immediately before concrete is placed in contact therewith. Wetting down of areas around the work, to cool the surrounding air and increase the humidity, is recommended.

(5) In extremely hot, windy weather (temperatures over 90 degrees Fahrenheit) sunshades, wind breakers and/or fog nozzles may be required during flat slab finishing operations. If in the engineer's or administrative authority representative's opinion adequate hot weather precautions are not being observed, concreting operations shall be suspended.

(6) Concrete shall be kept cool during the specified curing period by the following methods: Top surfaces of slabs shall be coated with white pigmented membrane curing compound (as hereinafter specified under curing) within 20 minutes after final finishing has been completed at any point. When ambient air temperatures exceed 90 degrees Fahrenheit, and as soon as practicable without damage to the surface finish, all exposed concrete shall be kept continuously moist by means of fog sprays, wet burlap or cotton mats, or other effective method. Such water cooling to be in addition to initial surface sealing by membrane curing compound.

(7) The cement factor used in the approved concrete design mix shall be increased when and as necessary to maintain the specified maximum water-cement ratio in all cases where additional water is added to compensate for loss of slump during transportation, handling or placing.

(8) Retarding admixtures may be used only when necessary and only under strict supervision and with written approval of the city engineer or authorized representative.

(9) Additives at no time shall be used for the purpose of reducing specified quantity of cement.

(10) Slump limits shall remain the same with or without additives.

(Code 1974, § 5-15; Code 1989, § 6-126)

Sec. 10-184. Curing concrete.

(a) *Generally.* Curing concrete is defined as providing a means to keep newly placed concrete moist and at the proper temperature so that hydration of the cement can continue. All concrete, other than concrete below ground surface not in forms, and except as elsewhere specified, shall be cured for a period of at least five days after placing. Concrete made with high-early-strength cement or containing two percent calcium chloride shall be cured at least 72 hours. Whenever there is a cessation of placing of concrete, the concrete already placed shall be kept continuously moist with damp mats or burlap placed over the concrete or framework until concreting is resumed. Concrete shall not be directly sprayed with water prior to obtaining initial set.

(b) *Materials.* Materials used for curing concrete shall conform to the following requirements as they are applicable:

(1) *Cotton mats.* American Association of State Highway Officials (AASHO) standard specifications for cotton mats for curing concrete pavements, designation M73;

(2) *Burlap.* AASHO standard specifications for burlap cloth made from jute or kenaf, designation M182; Class 2, 3 or 4;

(3) *Waterproof paper.* ASTM tentative specifications for waterproof paper for curing concrete, designation C171;

(4) *Liquid membrane.* ASTM standard specifications for liquid membrane-forming compounds for curing concrete, designation C309;

(5) *Polyethylene sheeting.* AASHO standard specifications for white polyethylene sheeting (film) for curing concrete, designation M171.

(c) *Formed concrete.*

(1) Concrete adjacent to wood forms shall be cured by either keeping the forms continu-

ously wet beginning not later than 18 hours after placing has been completed, or by loosening the forms when directed by the inspector and applying water to the top surfaces and allowing it to run down between the forms and the concrete.

(2) When metal forms are used for vertical surfaces, the forms shall either be kept in contact with the concrete for the entire curing time or completely removed and one of the other specified curing methods used.

(d) *Slabs.* Slabs shall be cured either by wet covering, waterproof covering or liquid membrane seal.

(e) *Coverings application.* One of the following methods of covering shall be used as soon as possible after the final finishing operations and when the concrete has set sufficiently so that it will not be damaged in the process:

(1) *Wet coverings.* Wet coverings shall consist of either burlap, cotton mats, damp earth or sand, or poured water. Coverings shall be kept continuously moist for the duration of the curing period. Water shall be applied in a manner which will not damage the concrete. Curing water shall be free of impurities which may damage or discolor the concrete surface.

(2) *Waterproof coverings.* Waterproof coverings shall consist of either waterproof or polyethylene sheeting (film). The covering shall completely cover the concrete with sufficient material remaining at the sides for proper anchorage. Adjoining sheets shall be lapped six inches or sealed. All tears and holes in the covering shall be promptly mended with adhesive tape or other approved means. The covering shall be continuously anchored around the edges and at laps, and shall be weighted on the surface as necessary to prevent billowing by the wind. The covering may be reused provided all holes and tears are properly repaired.

(3) *Membrane curing compounds.* Membrane curing compounds used on concrete exposed to the sun may be white pigmented. Compounds for all other work shall be pigmented unless the building inspector directs that a clear type be used. When specified, clear compounds shall contain a fugitive dye. Spray application is recommended and shall be performed in such a manner that a uniform, continuous and water-impermeable film is provided. If an even covering cannot be applied in one coat, the compound shall be applied in two coats with the direction of application of the second coat being at right angles to the first. The amount of curing compound applied shall be not less than that recommended by the manufacturer. Pigmented compounds shall be stirred before use. Membrane curing compounds shall not be used where concrete is to be painted, unless otherwise specified by the architect-engineer. The membrane shall be protected from damage during the curing period and the contractor shall immediately repair all damage. The edges of slabs shall be cured either by backfilling with moist earth or by one of the other methods described herein. The contractors attention is directed to the special requirements concerning curing specified for hot and cold weather concreting. A combination of the various curing methods may be used with the approval of the building official, provided the exposure time of the concrete to drying is less than one hour. For example, concrete work may be initially cured for one day using a wet covering and then followed by four days of cure using a waterproof membrane covering.

(Code 1974, § 5-16; Code 1989, § 6-127)

Sec. 10-185. Driveways.

(a) Driveways shall be constructed to produce a hard-surfaced finish.

(1) Concrete: Minimum depth of four inches;

(2) Bituminous paving: Minimum depth of four inches.

(b) Expansion joints shall be placed in all areas between existing concrete construction prior to placing fresh concrete. Expansion joints shall be at least one-half inch thick and the same depth as the thickness of concrete to be placed.

(c) Control joints shall be constructed with grooving tool or sawed every ten feet or equally divided in sections not less than ten feet.

(d) It is recommended that all driveways be broom finished as a safety factor.

(e) On lots developed with residential dwellings, no motor vehicle shall be permitted to be parked between the dwelling and any street unless such vehicle is parked upon a driveway. Said driveway shall conform to all the following standards:

(1) The distance between a front, rear, or side building line of a structure and the edge of a driveway shall be no greater than ten feet;

(2) A driveway shall not be wider than 40 percent of the width of the lot on which the driveway is located or 36 feet, whichever is less;

(3) A driveway shall not be less than ten feet in width;

(4) A driveway shall not cover more than 40 percent of the required front yard or side yard, where the side yard is fronting a street on a corner lot;

(5) In all instances, no vehicle shall be parked so as to have any portion of the vehicle located over a public or private sidewalk or pedestrian way; and

(6) A driveway which is accessed from an alley and is located within the rear yard setback shall have a minimum width of ten feet.

(f) Driveway approaches shall require a minimum of six inches of concrete or bituminous paving.

(g) Driveway elevations and construction must conform to the existing street and not cause interruptions to or excessive additional drainage into the stormwater system.

(h) A minimum 12-inch diameter driveway culvert or tube shall be placed at driveways, unless otherwise approved by the city engineer, where needed to facilitate storm drainage. These pipes shall conform to the current stormwater flow line and have a minimum of six inches of cover. Example: A 12-inch pipe is required to be buried 18 inches deep. The flow line is now 18 inches deep.

(i) Any ditching or improvements required up or down stream due to the installation of a new culvert/pipe is the responsibility of the owner.

(j) Culverts/pipes shall be installed per manufacturer's requirements and drainage established, at the owner's expense, in a manner that will allow the driveways to connect to the existing street without changing the street profile.

(k) For new development or construction, the owner shall provide culvert/pipe locations in their stormwater plan that includes locations, elevations, and grade during the permitting and approval process. This plan will also include any improvement or construction required up and down stream to ensure the stormwater flow is maintained.

(Code 1974, § 5-17; Code 1989, § 6-128; Ord. No. 12277, § 2(6-128), 4-16-2018)

Sec. 10-186. Frost line requirements.

(a) Footings shall have a minimum depth of 48 inches below the finished earth grade.

(b) Sanitary lines shall have a minimum depth of 48 inches below the finished earth grade, unless unable to gravity flow to main. If unable to gravity flow to main, a minimum of depth of 12 inches is required. Difference in elevation at entrance and at tap shall be excavated to permit uniform fall in sanitary line. Sanitary lines under alleys, streets and parking lots shall be a minimum of 48 inches below the finished grade.

(c) Water lines shall have a minimum depth of 48 inches below the finished earth grade. When the main is less than 48 inches below the finished earth grade, the line shall be directed from top.

(Code 1974, § 5-18; Code 1989, § 6-129; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-187. Effect of conflict with other codes or ordinances.

Any provision of another code or ordinance of the city which is more restrictive than a provision of this article will apply over the provision of this article in cases of conflict.
(Code 1989, § 6-130)

Sec. 10-188. Penalty for violation.

Any person who shall violate a provision of the concrete specifications and application code or shall fail to comply with any of the requirements thereof, or who shall erect, construct alter or repair a building or structure in violation of the approved plan or directive of the building inspector, or of a permit or certificate issued under the provisions of this Code, shall be guilty of an ordinance violation, punishable as provided in section 1-8.
(Code 1974, § 5-19; Code 1989, § 6-131)

Secs. 10-189—10-214. Reserved.

ARTICLE IX. FIRE PREVENTION CODE

Sec. 10-215. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Fire Code, as published by the International Code Council, Inc., is hereby adopted as the fire prevention code of the city. Each and all of the regulations, provisions, penalties, conditions and terms thereof are hereby adopted except as specifically deleted or revised and made a part of this article as if fully set out herein.
(Code 1989, § 6-146; Ord. No. 11280, § 9, 1-20-1997; Ord. No. 11619, § 12, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-216. Amendments.

The following sections of the International Fire Code adopted in section 10-215 are hereby revised or deleted as follows:

(1) *Section 101.1.* Insert "City of Kirksville, Missouri."

(2) *Section 109.4.* Insert "an ordinance violation" and "$500.00" and "90 days," respectively.

(3) *Section 307, Open Burning and Recreational Fires.* Delete entire section.

(4) *Section 5601.1.3, Explosives and Fireworks.* Insert "5. Except as permitted within the City of Kirksville Code of Ordinances for the use, display, discharge, sale and storage of 1.3G Fireworks."

(5) *Section 5601.2.4.* Delete.
(Code 1989, § 6-147; Ord. No. 11280, § 10, 1-20-1997; Ord. No. 11619, § 13, 5-19-2003; Ord. No. 11785, § 1, 1-17-2007; Ord. No. 11786, § 2, 2-7-2007; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(2)—(4), 1-4-2016)

Secs. 10-217—10-240. Reserved.

ARTICLE X. PROPERTY MAINTENANCE CODE

Sec. 10-241. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Property Maintenance Code, as published by the International Code Council, Inc., is hereby adopted as the property maintenance code of the city. Each and all of the regulations, provisions, conditions, and terms thereof are hereby adopted and made a part of this article as if fully set out herein.
(Code 1989, § 6-161; Ord. No. 11280, § 11, 1-20-1997; Ord. No. 11619, § 15, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-242. Amendments.

The following sections of the International Property Maintenance Code adopted in section 10-241 are hereby revised as follows:

(1) *Section 101.1.* Insert "City of Kirksville, Missouri."

(2) *Section 103.5. Fees.* Insert "City of Kirksville Exhibit A Fee Schedule"

(3) *Add new section 110.5.* Insert "If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of 50 percent of the face value of the policy covering a building or other structure, then the following procedure shall apply:

1. The insurer shall withhold from the covered claim payment 25 percent of the covered claim payment, and shall pay that amount to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section. If a special tax bill or assessment is issued by the city for the expenses of demolition of such building as a dangerous building, the monies held by the city shall be applied toward payment of special tax bill or assessment. If there is any excess, it shall be paid by the city to the insured or as the terms of the policy, including any endorsements thereto, provide.

2. The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (3)a of this section to the insured or as the terms of the policy and endorsements thereto provide within 30 days after receipt of such insurance monies, unless the city has instituted legal proceedings under the provisions of the 2015 International Property Maintenance Code, section 110.3. If the city has proceeded under the provisions of section 110.3, all monies in excess of that necessary to comply with the provisions of sections 110.3 and 110.4 for the removal of the building or structure, less salvage value, shall be paid to the insured.

3. The city may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild, or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within 30 days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.

4. No provision of this section shall be construed to make the city a party to any insurance contract."

(4) *Section 302.4. Weeds.* Insert "8 inches."

(5) *Section 302.8, Motor Vehicles.* Delete existing text and insert the following: "Refer to Code of Ordinances, City of Kirksville, section 24-4, Wrecked, damaged, demolished, disabled, disassembled, inoperative, or currently unlicensed vehicles."

(6) *Section 304.14.* Insert "April 1 to December 1."

(7) *Section 602.3.* Insert "October 1 to May 1."

(8) *Section 602.4.* Insert "October 1 to May 1."

(9) *Delete.* Delete the existing definition of rubbish as defined in the adopted version of the International Property Maintenance Code and replace with: "Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, automotive and other vehicle and mechanical parts, tires, bicycle parts, stripped down or non-working lawn

mowers, construction materials when no building permit is in effect, boards, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, recycle materials not in approved recycling containers, glass, crockery, dust, and other similar materials."

(Code 1989, § 6-162; Ord. No. 11280, § 12, 1-20-1997; Ord. No. 11446, § 1, 4-17-2000; Ord. No. 11474, § 6, 11-6-2000; Ord. No. 11500, § 1, 6-4-2001; Ord. No. 11619, § 16, 5-19-2003; Ord. No. 11785, § 1, 1-17-2007; Ord. No. 11786, § 2, 2-7-2007; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12149, § 2, 3-16-2015; Ord. No. 12190, § 1(2), (3), 1-4-2016)

Secs. 10-243—10-262. Reserved.

ARTICLE XI. FUEL GAS CODE

Sec. 10-263. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Fuel Gas Code, as published by the International Code Council, Inc., is hereby adopted as the fuel gas code of the city. Each and all of the regulations, provisions, conditions, and terms thereof are hereby adopted and made a part of this article as if fully set out herein.

(Code 1989, § 6-194; Ord. No. 11619, § 14, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(1), 1-4-2016)

Sec. 10-264. Amendments.

The following section of the International Fuel Gas Code adopted in section 10-263 is hereby revised as follows:

(1) *Section 101.1.* Insert: "City of Kirksville."

(Code 1989, § 6-195; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009)

Secs. 10-265—10-291. Reserved.

ARTICLE XII. ENERGY CONSERVATION CODE

Sec. 10-292. Adopted.

A certain document, one copy of which is on file in the office of the code enforcement director, being marked and designated as the 2015 International Energy Conservation Code, as published by the International Code Council, Inc., is hereby adopted as the energy conservation code of the city. Each and all of the regulations, provisions, conditions, and terms thereof are hereby adopted and made a part of this article as if fully set out herein.

(Code 1989, § 6-217; Ord. No. 11619, § 17, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12190, § 1(2), 1-4-2016)

Sec. 10-293. Amendments.

The following section of the International Energy Conservation Code adopted in section 10-292 is hereby revised as follows:

(1) *Section 101.1.* Insert: "City of Kirksville."

(Code 1989, § 6-218; Ord. No. 11619, § 18, 5-19-2003)

Secs. 10-294—10-319. Reserved.

ARTICLE XIII. ADDITIONAL BUILDING REQUIREMENTS

Sec. 10-320. Protection of pedestrians.

Any construction or demolition site must provide protection to ensure that pedestrians do not unknowingly come onto a site where construction or demolition is taking place and be exposed to an area that has a fall hazard of greater than 30 inches in depth as described below:

(1) The protection of pedestrians or others that could fall into a hole or excavation of greater than 30 inches as described in subsection (2) of this section must be protected by enclosing the worksite or the fall hazard with a 48-inch nominal height plastic safety fencing. If the hazard area is a trench or smaller size hole, it

may be covered with plywood or other wood-constructed covers that will support a 250-pound person, in lieu of the fencing.

(2) A hole or depression of 30 inches or more considered as a hazardous fall area is defined as any change in level that is greater than 30 inches in height in a span or run of more than six inches and less than four feet. A trench of six inches width or less, or a hole of six inches in diameter or less, does not require the guarding identified in this section.

(3) The safety fencing or wood protection must be in place on the site at the end of the working day. The end of the working day is defined as that time in which the contractor ceases work for the day, weekends and/or holidays recognized by the contractor. Any fencing used must be installed appropriately to remain upright and act as an effective barrier to pedestrian traffic.

(4) The general contractor for a site, and the last contractor to leave the site at the end of a work day, are jointly responsible for the identification of the hazard area and the installation and maintenance of the safety fencing or other protection devices.

(5) Persons who fail to maintain or to provide safety fencing or protection devices, when required, during the construction or excavating process or when demolishing basements or trench lines that exceed 30 inches in depth as described above may be liable for penalties as provided for by law for such violations.

(6) Any person convicted of a violation of this section shall be punished as provided in section 1-8.

(Code 1974, § 5-2; Code 1989, § 6-87(g); Ord. No. 10726, § 2, 8-4-1986; Ord. No. 10805, § 1, 1-18-1988; Ord. No. 10899, § 2, 1-15-1990; Ord. No. 10967, §§ 1—3, 12-17-1990; Ord. No. 11064, § 1, 12-21-1992; Ord. No. 11280, § 2, 1-20-1997; Ord. No. 11383, § 1, 4-19-1999; Ord. No. 11474, § 1, 11-6-2000; Ord. No. 11556, § 1, 3-18-2002; Ord. No. 11619, § 2, 5-19-2003; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12126, § 1, 9-15-2014; Ord. No. 12147, § 1, 3-2-2015; Ord. No. 12190, § 1(2), 1-4-2016)

Sec. 10-321. Carbon monoxide alarm devices; requirements.

(a) All residential dwellings and every building which contains a residential units shall be equipped with approved carbon monoxide alarms if within that building there exists any heat source that burns fossil fuels that produces carbon monoxide.

(b) Any residence or any building which contains a residential unit and has an attached motor vehicle garage shall install carbon monoxide alarms in accordance with this section.

(c) Location. Not less than one approved carbon monoxide alarm shall be installed in each residential unit. At least one such alarm shall be installed within 40 feet of each room used for sleeping purposes. The carbon monoxide alarm should be placed so it will be easily audible in all sleeping rooms. The carbon monoxide alarm shall be installed according to the manufacturer's instructions.

(d) Standards. Every approved carbon monoxide alarm shall comply with all applicable federal and state regulations, and shall bear the label of a nationally recognized standard testing laboratory, and shall meet the standards of UL 2034 or its equivalent. The code enforcement director may issue rules and regulations not inconsistent with the provisions of this section, for the implementation and administration of the provisions of this section relating to carbon monoxide alarms.

(e) Battery removal violations; penalty. It shall be unlawful for any person to remove batteries from a carbon monoxide alarm required under this section, or in any way to make inoperable a carbon monoxide alarm required under this section, except that this provision shall not apply to any building owner or manager or agent in the normal procedures of replacing batteries. Any

person who violates this subsection shall be punished by a fine of not less than $500.00 per violation.

(f) Owner's/tenant's responsibilities. The owner of a structure shall install the carbon monoxide alarms and supply required carbon monoxide testing and maintenance information to at least one adult tenant in each dwelling unit. The tenant shall conduct periodic tests, provide general maintenance, and replace required batteries for carbon monoxide alarms located in the tenant's dwelling unit.

(g) The owner or owner's agent of any building which contains a residential unit or the owner or the owner's agent of any residential building that has more than one unit and is heated by a central heating source which uses fossil fuel for its heating shall install one approved carbon monoxide alarm on the floor containing the central heating unit. The owner shall test, provide general maintenance, and replace the required batteries for carbon monoxide alarms located in this area. The carbon monoxide alarm shall be installed according to the manufacturer's instructions.

(h) In cases where dwellings are owned by the resident and reside therein, the owners of the residence shall be responsible for the installation and maintenance of the required carbon monoxide detector according to the manufacturer's specifications and the terms of this section.

(i) Fossil fuel defined. Whenever used in this section, the term "fossil fuel" includes, but is not limited to, coal, natural gas, kerosene, oil, propane and wood.

(j) Penalties. Any person who shall violate a provision of this section, or shall fail to comply with any of the requirements thereof, shall be guilty of an ordinance violation, punishable as provided in section 1-8.
(Code 1989, § 6-162(j); Ord. No. 11280, § 12, 1-20-1997; Ord. No. 1446, § 1, 4-17-2000; Ord. No. 11474, § 6, 11-6-2000; Ord. No. 11500, § 1, 6-4-2001; Ord. No. 11619, § 16, 5-19-2003; Ord. No. 11785, § 1, 1-17-2007; Ord. No. 11786, § 2, 2-7-2007; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12149, § 2, 3-16-2015; Ord. No. 12190, § 1(2), (3), 1-4-2016)

Chapter 11

RESERVED

Chapter 12

BUSINESSES, OCCUPATIONS AND PROFESSIONS

Article I. In General

Article II. Peddlers, Solicitors and Canvassers

Article III. Cigarettes

Article IV. Farmers' Market

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ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

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

Agency means any group of persons formed together to offer any product, item, service, ware or other commodity to the general public for payment thereof.

Agent means any individual or person who, as representative of another, offers any item, product, service, ware or other commodity to the general public for payment thereof.

Business means all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profits or benefits, either directly or indirectly, on any premises in the city or anywhere else within its jurisdiction, as permitted by the Revised Statutes of Missouri and as provided for by this Code and other ordinances of the city.

Canvasser means any person who attempts to make personal contact with a resident at the residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or distributing a handbill or flyer advertising a noncommercial event or service.

Contractor or *subcontractor* means any person who agrees or contracts with another, for a fee or consideration, to build, construct, remodel, plaster or aid in building, constructing, remodeling or plastering any building, or any structure, driveway, sidewalk, street or utility line in the city, not including service providers who only bury communication lines to businesses or residences, or any person who builds any structure of any kind, for sale in the city, except one who builds a home or structure to be occupied by the person.

Deceptive practices means the misleading of others through intentional false statements or fraudulent actions.

Electrician means any person who installs, operates, maintains, or repairs electric devices or electrical wiring.

Food truck means an automobile or trailer designed and used for cooking, preparation, assembling, and/or serving of a full or limited menu of single service food items from the automobile or trailer for use by consumers.

Food truck vendor means the owner of the food truck and/or any person driving and/or selling food items from the food truck.

Gross receipts means gross revenue, gross proceeds, gross annual commissions and fees from business transacted or carried on within the city, including retail and wholesale, except state and federal direct excise, sales, use and gasoline taxes.

Gross receipts fee means a fee based on gross receipts and due on a quarterly basis by an applicable business that is subject to assessment on gross receipts, which said fee shall be in the amount provided in the city's fee schedule per $1,000.00 of gross receipts exceeding $30,000.00.

HVAC technician means any person who is responsible for installing and maintaining heating, air conditioning and ventilation equipment. An HVAC technician is not a plumber.

Insignia means any tag, plate, badge, emblem, sticker, card or any other kind of device which may be required for any use in connection with any license.

Itinerant vendor means all persons, both principal and agents, who engage in or conduct, within the city, either in one location, or in traveling from place to place, a temporary or transient business of selling goods, wares and merchandise with the intention of continuing such business in any one place for a period of not more than 120 days.

Jobber means any person who solicits any item, product, service, ware or commodity from the manufacturer and offers the same for resale to others who will sell such item, etc., to the general public.

Legal entity means a separate and distinct business, having a different legal name from any other.

License means any license required to be secured under this chapter.

License year. The term that a license is valid, unless otherwise provided, means the year beginning March 1, or in the case of businesses newly established at the beginning of doing business, and ending on the last day of February of the following year.

Manufacturer means any person, company or corporation who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining, or by the combination of different materials. (Per RSMo ch. 150.)

Merchant means any person, corporation, copartnership or association of persons, who shall deal in the selling of goods, wares and merchandise at any store, stand or place occupied for that purpose. Also, every person, corporation, copartnership or association of persons doing business in the state who shall, as a practice in the conduct of such business, make or cause to be made any wholesale or retail sales of goods, wares and merchandise to any person, corporation, copartnership or association of persons, shall be deemed to be a merchant whether said sales are accommodation sales, whether they are made from a stock of goods on hand or by ordering goods from another source, or whether the subject of said sales are similar or different types of goods than the type, if any, regularly manufactured, processed or sold by said seller. (Per RSMo ch. 150.)

Nonresident means a business located outside the city limits and outside a one-mile radius from the city limits.

Peddler means any person who attempts to make personal contact with a resident at the residence and moves from place to place within the city, along the streets therein, for the primary purpose of attempting to sell a good or service.

Plumber means a person who fits and repairs the pipes, fittings, and other apparatus of water supply, sanitation, or heating systems. A plumber is not an HVAC technician.

Premises means all lands, structures, places and, also, equipment and appurtenances connected or used therewith in any business all in one location not divided by other real property of another or streets and, also, any personal property which is either affixed to or is otherwise used in connection with any other business conducted on such premises.

Profession means any type of service offered to the general public by any person for payment thereof.

Retail means any person who offers or sells any item, product, service, ware or commodity to the general public and user.

Sale of business. A business will be considered sold if it is a sole ownership or partnership that has an ownership change.

Salesman means any person who offers any type of item, product, service, ware or other commodity offered for sale to the general public for payment thereof.

Solicitor means any person who attempts to make a personal contact with a resident at the resident's residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service or distributing a handbill or flyer advertising a commercial event or service.

Taxable services. Services are generally presumed taxable unless specifically exempted by law.

Wholesaler means any person who offers or sells any item, product, service, ware or other

commodity to another who is in the business of offering the same for resale only and not for personal use.

(b) All other items, phrases, words and their derivations used in this chapter shall be interpreted by the definition given the same by the latest version of the universally-recognized Webster Dictionary.
(Code 1974, § 12-11; Code 1989, § 14-16; Ord. No. 10379, § 1, 9-28-1979; Ord. No. 11497, § 1, 5-7-2001; Ord. No. 11788, 2-28-2007; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013)

Sec. 12-2. License required; payment, duration; multiple businesses, premises.

(a) Every person doing business and engaged in any of the businesses, occupations, professions or services shall pay the license fees set forth in this chapter, which shall be annual and which shall be due and payable and issued on or before March 1 of each year and be valid until the last day of February of the following year, with the exception of an itinerant vendor who is only issued a business license for a maximum 120 days.

(b) All persons, merchants, agents, itinerant vendors, peddlers, salesmen, businesses, food truck vendors or their representatives, before offering any item, product, merchandise, service or commodity for sale, shall make application for renewal or new annual license, and such person may commence business upon issuance of such license.

(c) Any person operating both a retail and wholesale business on the same premises shall purchase both wholesale and retail licenses; however, such person shall compute the gross receipts fee collectively from their gross wholesale and gross retail receipts.

(d) Where two or more retail licenses are required for a person to operate a business on one premises, such person may combine all gross receipts from all such retail transactions for computing the gross receipts fee thereon.

(e) Where an additional retail license is required for a person to operate a business on one or more separate premises, such person may combine all gross receipts from all such retail transactions from all premises for computing the gross receipts fee thereon.

(f) No renewal application will be accepted or renewal license issued unless in compliance with the provisions of section 12-19(c).

(g) No refund shall be made on any gross receipts fee, license fee or investigation fee imposed under this chapter due to the cessation of the business during any license year or withdrawing an application once submitted.

(h) All persons engaging in a business on which the gross receipts fee shall be assessed, shall submit quarterly reports to the finance department on forms provided by the city of their gross receipts for each period.

(i) The quarterly reports are due not later than January 31, April 30, July 31 and October 31 of each year.

(j) The gross receipts fee shall be due and payable upon the expiration of the itinerant vendor's license under which such sales are made. Each itinerant vendor shall submit a report to the account clerk on forms provided by the city of their gross receipts, and which such report shall be due no later than three days after the expiration of such license. A penalty charge of 1½ percent per month shall be assessed as a penalty for delinquent payment of gross receipts fees.
(Code 1989, § 14-17; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12178, § 1, 11-16-2015; Ord. No. 12182, § 1, 12-7-2015)

Sec. 12-3. Licenses required by chapter in addition to alcoholic beverage and motor vehicle licenses.

(a) In addition to any applicable license listed in this chapter, any person offering for sale, selling, storing or allowing the consumption of intoxicating liquor on their premises shall also purchase the license required for sale.

(b) In addition to any applicable license listed in this chapter, any person using any motor vehicle for the furtherance, delivery or in any manner about the promotion of their business shall purchase the required state motor vehicle license for the same.
(Code 1989, § 14-18; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-4. Fee based on gross receipts generally.

Unless otherwise provided, every person engaged in a business, excluding not-for-profit corporations, on which the gross receipts fee shall be assessed, shall pay an amount as provided in the city's fee schedule per $1,000.00 on gross receipts exceeding $30,000.00. A penalty charge of 1½ percent per month shall be assessed as a penalty for delinquent payment of gross receipts fees.
(Code 1989, § 14-19; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12065, § 1, 6-17-2013)

Sec. 12-5. Gross receipts fee required, no performance bond.

Gross receipts fees shall be imposed upon all businesses, excluding not-for-profit corporations, located within the city engaged in the business of selling tangible personal property or rendering taxable services at retail or wholesale as set out in section 12-4, unless applicable to section 12-6 or 12-7. The annual license fee applicable to all businesses subject to this section is included in the city's fee schedule.
(Code 1989, § 14-20; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12065, § 1, 6-17-2013; Ord. No. 12178, § 1, 11-16-2015)

Sec. 12-6. Performance bond required, no gross receipts fee.

(a) All persons, merchants, agents, repairmen or their representatives, unless a member of a licensed firm in another section, shall, before repairing or installing any item, product, merchandise, service or commodity, make an application for renewal or new license, pay the required fees, and complete any required testing. Such person may commence business upon issuance of the license.

(b) In addition to the annual license fees set out in the city's fee schedule, each of the persons, merchants, agents, repairmen or their representatives shall be required to post a performance bond or certificate of general liability insurance with the city, but shall not be required to pay a gross receipts fee on their gross receipts as set out in section 12-4.

(c) Every person engaging in a business for which a performance bond shall be required shall, in addition to the license fee provided for in this section, deposit with the finance department a surety bond in the sum set at the current limits established by the city's risk management policy, unless otherwise specified, executed by a surety company authorized to transact business in the state, conditioned upon the faithful compliance with the provisions of this chapter and other ordinances of the city. Such bond shall also be conditioned to indemnify or reimburse the city or any purchaser of goods, wares, merchandise or services in a sum equal to the amount of any payment for damage, which the city may suffer or which such purchaser may have been induced to make through misrepresentation or fraud.

(d) In lieu of such a performance bond, every person engaging in a business for which a performance bond would otherwise be required, may deposit with the finance department a certificate of general liability insurance in an amount set at the current limits established by the city's risk management policy.

(e) In the event that any such person shall fail to deposit such a performance bond or certificate of insurance with the finance department as herein provided, or in the event that any such performance bond or certificate of insurance deposited with the finance department shall be cancelled, then the license of such person to engage in such business shall be subject to immediate revocation.
(Code 1989, § 14-21; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 11988, § 1, 1-23-2012; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12111, § 1, 4-21-2014; Ord. No. 12178, § 1, 11-16-2015)

Sec. 12-7. Neither performance bond nor gross receipts fee required.

(a) All persons, merchants, agents, peddlers, salesmen, or businesses, before offering any item, product, merchandise, service or commodity for sale, shall make application for renewal or new license, pay the required fees and complete any required testing. Such person may commence business upon issuance of the license.

(b) This section is applicable to businesses whose revenues are based on fees or commissions for services provided for hire or to a manufacturing business of any kind, with the exception of those professions so named under RSMo 71.620 and 71.630. These businesses shall not be required to post any performance bond with the city nor pay any gross receipts fee on their gross receipts, unless otherwise specified.

(c) The annual license fee applicable to all businesses subject to this section is set forth in the city's fee schedule.
(Code 1989, § 14-22; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12044, § 1, 2-19-2013; Ord. No. 12178, § 1, 11-16-2015)

Sec. 12-8. Notice of expiration.

The finance department shall cause a notice to be mailed to each person licensed under this chapter on or before February 1 of each year informing licensee that the license shall expire on the last day of February of that year, unless otherwise renewed.
(Code 1989, § 14-23; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-9. Inspection; designation and duties of inspector generally; confidentiality of information received.

(a) *Designation.* The finance director shall act as license inspector on behalf of the city.

(b) *Duties.* The finance director shall accept all applications for licenses provided by this chapter, shall investigate all applications and, upon investigation, recommend to the city council that the license sought under the provisions of this chapter be either issued or not issued and shall also:

(1) Promulgate and enforce all reasonable rules and regulations approved by the city council.

(2) Adopt all forms as prescribed, the information to be given herein as to character and other relevant matters for all necessary papers.

(3) Require applicants to submit all affidavits and oaths necessary to the administration of this chapter.

(4) Submit all applications, in a proper case, to interested city officials for their endorsements thereon, as to compliance by the applicant with all city regulations which they have the duty of enforcing.

(5) Investigate and determine the eligibility of any new applicant for a license as prescribed herein, and the finance director and deputies shall be entitled to a reasonable time in which to conduct such investigation.

(6) Examine, with the express consent of the city council and the assistance of an auditor, the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this chapter, and then only to such extent necessary to obtain an accurate gross receipts amount. If a variance of more than ten percent of an underpayment to the city is disclosed from such audit, the cost shall be borne by such licensee, and such deficit plus a ten percent underpayment penalty shall be assessed and paid to the city. In addition, proof of gross receipts can be obtained by requesting a copy of the applicable federal income tax forms as filed for the year in question or through sales tax reports as filed with the state for the period in question.

(7) Notify any applicant of the acceptance or rejection of an application; and shall, upon the refusal of any license or permit,

at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.

(c) *Confidential information.* The finance director, deputies and the city council shall keep all information, which is designated as confidential, furnished or secured under the authority of this chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known, except to the persons charged with the administration of this chapter. Any city officer or city employee disclosing confidential information under this subsection shall be subject to immediate dismissal.
(Code 1989, § 14-24; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-10. Persons authorized to inspect; authority of inspectors; reports of inspectors.

(a) *Persons authorized to make inspections.* The following persons are authorized to conduct inspections in the manner prescribed herein:

(1) The finance director shall make all investigations reasonably necessary to the enforcement of this chapter, including the auditing and checking of all books and records of any licensed business.

(2) All police officers shall inspect and examine businesses located within their respective jurisdictions to enforce compliance with this chapter, when so directed by the finance director.

(b) *Authority of inspectors.* The finance director and all police officers shall be authorized herein to inspect persons, licensees and businesses. The finance director and all police officers may request any person observed in the act of selling or peddling for such person's identification and the city license. All authorized deputies shall have the authority to enter, at all times, the following premises:

(1) Those premises for which a license is required.

(2) Those premises for which a license was issued and which, at the time of inspection, is operating under such a license.

(3) Those premises for which the business is operating under a revoked license or the licensee is in noncompliance with this chapter.

(c) *Reports, generally.* Persons inspecting licensees, persons, their businesses or premises as herein authorized shall report all violations of this chapter or other laws or ordinances to the city manager and shall submit such other reports as the city manager or the city council shall order.
(Code 1989, § 14-25; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-11. Conduct of business without license.

Any person required by this chapter to obtain a license, who shall engage in any business, occupation, pursuit, profession or trade, or keep or maintain any institution, establishment, article, utility or commodity for which such license is required, without first procuring and paying for such license; and every manager, agent, officer or employee of any such person who shall assist any such person in engaging in such unlicensed activity after receiving notice that such person has not procured and paid for such license; and any person, including any such manager, agent, officer or employee, who knowingly makes any false statement in any application for any such occupational license as to any gross annual business, annual gross receipts, gross annual commissions or as to any other conditions or factors upon which such license fee is or shall be based, shall be subject to the penalties set forth for a violation of this chapter.
(Code 1989, § 14-26; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-12. Refusal to issue license when unpaid obligations due to city or state.

(a) *Gross receipts fee.* No renewal license shall be issued to any person required to pay the gross receipts fee if such fee, wholly or partially, is outstanding for any previous license period.

(b) *City obligations.* No license, initial or renewal, required under the provisions of this chapter shall be issued to any person until all personal property taxes, real property taxes, merchants' or manufacturers' ad valorem taxes, license or permit fees, due and unpaid, are paid in full, including all penalties thereon. Likewise, any other financial obligation due and owing from the person to the city shall be paid in full prior to the issuance of any license required hereunder.

(c) *State obligations.* No license, initial or renewal, required under the provisions of this chapter shall be issued to any person until a no tax due clearance letter is provided from the state, dated no earlier than 90 days prior to the date of license application or renewal submission.
(Code 1989, § 14-27; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-13. Special sales, etc.

This chapter shall apply to all business in the nature of special or other sales for which a license is required by this chapter or any other ordinance of the city. It shall be unlawful for any person, either directly or indirectly, to conduct any such sales except in conformity with the provisions of this chapter.
(Code 1989, § 14-28; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-14. Acts constituting doing business; agents of nonresidents or itinerants to obtain license.

(a) For the purposes of this chapter, any person shall be deemed to be in business or engaged in nonprofit enterprise, and thus subject to the requirements of subsections (a)(1) through (3) of this section, when the person does one act of:

(1) Offering or selling any goods or service.

(2) Soliciting business or offering goods or services for sale or hire.

(3) Acquiring or using any vehicle or any premises in the city for business or sales purposes.

(b) The agents or other representatives of nonresidents or itinerants who are doing business in the city shall be personally responsible for the compliance of their principals and of the businesses they represent with this chapter.
(Code 1989, § 14-29; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-15. Branch establishments; separate occupations; delivery of purchased goods.

(a) A license shall be obtained in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

(b) Every person engaged in more than one occupation, where all such occupations are operated under the same management and at the same location, shall pay a license fee for each occupation, and the gross receipts fee on the receipts of these occupations, if so required, shall be paid on each occupation so licensed. This provision shall also apply in the case of contractors who may engage in more than one type of contracting.

(c) No license shall be required of any person for any mere delivery in the city of any property purchased or acquired in good faith from any person at a regular place of business outside the city, where no intent by such person is shown to evade the provisions of this chapter.

(d) The conduct of business at one location by separate legal entities shall require each to be separately licensed. The mere location of one legal entity on another legal entity's premises shall not preclude each entity from being required to have a separate business license.
(Code 1989, § 14-30; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-16. Separate licenses required for concession stands, lunch counters, etc.; branch establishments.

(a) Any food or beverage concession stand, lunch counter or vending machine maintained on the same premises of, or operated in connection with, another licensed business shall require a separate license. However, any applicable gross receipts fee on gross receipts from such a concession stand, lunch counter and any other similar business shall be computed together.

(b) Where more than one branch establishment, which is separate and apart from the main premises, is required to operate the same and main business listed in this section, each additional premises shall pay a license fee of one-half the charge for the main business premises. However, this provision is not applicable to separate businesses owned by the same person, even though they may be the same type of business.

(Code 1989, § 14-31; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-17. Food trucks, mobile units or pushcarts.

(a) All persons, merchants, operators, owners, and persons driving and/or selling food items from food trucks, mobile units or pushcarts shall, before selling any item, product, merchandise, or commodity, complete an application for a license or a renewal and pay the required fee as provided in the city's fee schedule, including an investigative fee in the amount as proved in the city's fee schedule for new applicants. Such person may commence business upon issuance of the license.

(b) Any operator, owner, or person driving and/or selling food items from food trucks, mobile units or pushcarts shall be required to pay gross receipts on their sales as set forth in section 12-4.

(c) To obtain a business license, the applicant must adhere to sections 12-19 through 12-21, in addition to the following requirements:

(1) An inspection by the county health department must be completed which indicates the facility and foods served are in compliance with all state and local laws.

(2) Provide proof of a general liability policy, in the name of the business or owner, insuring the amount as outlined in the city's risk management policy and provide proof of vehicular insurance coverage on units required to be licensed by the state department of revenue.

(d) Such license shall specifically designate the location of the street vendor's operation and shall in no way authorize or empower the holder thereof to block or impede the flow of vehicular or pedestrian traffic upon the public rights-of-way of the city. It shall be unlawful for any street food vendor to operate without the location designated in license.

(e) No food truck shall operate on city streets in residential areas or impede commercial business by blocking roadways or signage.

(f) No food truck, mobile unit or pushcart may sell within a city facility.

(g) No food truck may offer for sale or display a food item on any public property, including streets and parking lots, unless the food truck operator has received permission from city council, as it relates to a special event.

Sec. 12-18. Qualifications of all applicants generally.

The general standards herein set out relative to the qualifications of every applicant for a city license shall be considered and applied by the finance director. The applicant shall:

(1) *Obligations to city.* Not be in default under the provisions of this chapter or indebted or obligated in any manner to the city, except for current taxes.

(2) *Compliance with zoning regulations.* Present proof that the proposed use of any premises will not be in violation of any city zoning ordinances.

(3) *Compliance with fire code inspections.* Present proof that the premises of the business will be in compliance with city fire code prior to opening of the business.

(4) *State sales tax license.* Present a valid state sales tax license, if required by the

state, showing that the business is authorized under state law to operate within the city limits and not be in default of payment of state sales tax.

(5) *Property maintenance.* Present proof that the premises of the business will not be in violation of any city property maintenance code.

(6) *Evidence of workers' compensation.* Present a copy of certificate of insurance for workers' compensation coverage if required by the state. No license for a contractor shall be issued to any person until such person produces a copy of a certificate of insurance for workers' compensation coverage or an affidavit, the form of which is pursuant to RSMo 287.061, signed by the applicant attesting that the contractor is exempt. It shall not be the duty of the finance director to investigate any certificate of insurance or affidavit filed pursuant to this section.

(Code 1989, § 14-32; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12044, § 2, 2-19-2013)

Sec. 12-19. Issuance procedure generally.

(a) *Applications generally; fees.* Every person required to procure a license under the provisions of this chapter from the city shall submit a written application for such license to the finance department. The application shall:

(1) Be a written statement on forms provided by the finance department. Such forms shall include an affidavit, which shall be sworn to by the applicant before a notary public of the state.

(2) Require the disclosure of all information necessary to comply with section 12-18 and of any other information which the finance department shall find to be reasonably necessary to the fair administration of this chapter.

(3) Be accompanied by the full amount of the fees chargeable for such license.

(4) Be accompanied by payment of a fee in an amount sufficient to cover the cost of investigation.

(5) If applicable, provide a copy of a sales tax license showing the authority to make sales within the city and state in addition to providing a no tax due clearance letter from the state, dated no earlier than 90 days prior to the date of license application submission.

(b) *Receipts.* Whenever a license cannot be issued at the time the application for the same is made, the finance department shall issue a receipt to the applicant for the money paid in advance, subject to the following conditions: Such receipt shall not be construed as the approval of the finance department for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.

(c) *Renewal licenses.* All licenses issued under this chapter shall be renewed upon the payment of the prescribed annual license fee and completion of the appropriate license renewal application. Such renewal shall require:

(1) The disclosure of such information concerning the applicant's demeanor and conduct in the operation of the applicant's business during the preceding licensing period in order to determine the applicant's eligibility for a renewal license. This determination is subject to the same criteria as set in section 12-18.

(2) That no renewal application will be considered or license issued thereon unless all outstanding gross receipts fees or other obligations due the city have been paid.

(3) That no renewal application will be considered or license issued thereon unless all state sales taxes are current and a no tax due clearance letter is provided from the state, dated no earlier than 90 days prior to the date of license application or renewal submission.

(4) That no renewal application will be considered or license issued thereon unless

there has been compliance with the city fire code as determined by the city fire chief.

(5) That no renewal application will be considered or license issued thereon unless there has been compliance with the city property maintenance code as determined by the code enforcement director.

(d) *Duplicate licenses; special permits.* A duplicate license or special permit under this chapter shall be issued by the finance department to replace any license previously issued, which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit, sworn to before a notary public of the state, attesting to such fact and paying to the finance department a fee as provided in the city's fee schedule.

(e) *Signature.* The application must be signed by the owner, if the business is a sole ownership; by a partner, if the business is a partnership; or by a reported officer or agent, if the business is a corporation or other legal entity. The signature must be of the owner, partner, officer, or agent reported on the application.

(f) *Contractor testing.* Construction contractors, electricians, and plumbers are required to pass a written test showing competency in the field in which a business license is being applied for. The passing of the written test is necessary for final approval of a business license for these occupations.

(1) Tests will be scheduled and administered by the codes department.

(2) Tests will be graded on a pass/fail basis. Seventy percent is the minimum passing grade for any test.

(3) Persons who fail the first test will be allowed to take a second test at any time. Persons who fail a test the second time will be required to wait two weeks before taking a test again.

(4) Testing for the above occupations may be waived under the following conditions:

a. The plumber, electrician, or contractor is a card-carrying member of an accredited state or national union organization recognized for its members having the necessary skills for the license that has been requested or holds a statewide license. A journeyman's skill level would be accepted, while an apprentice level would not be accepted, for a waiver of the test. The code enforcement director, or designee, would decide any discrepancy in skill levels.

b. The person applying for the license can provide proof of a degree or diploma from an accredited college or other institution of higher learning that applies directly to the occupation that is being applied for. The code enforcement director, or designee, would make any decision on application of the degree versus the license desired.

c. The code enforcement director or designee may exempt from the testing any company applying for a contractor license that can provide evidence of:

1. Current licensing in a city with a population of 5,000 or more, or a county of the first class.

2. Certificates from other states showing that contractor testing has been passed and is still current.

3. Certificates from the Block or Thompson Prometric Testing programs showing the passing of contractor tests.

4. Certificate showing that testing was taken and passed for rating of master electrician.

5. Holding a contractor's license with the city for the last two years.

d. Contractors vetted through the city's request for bid process shall be exempt from contractor testing requirements, but shall be required to maintain a city business license for the duration of the contract. Any work done by these contractors for others in the city would require the testing to be completed unless qualifying for an exemption.

(5) The failure of any contractor to renew a contractor's license by March 1 requires the contractor to pay a recertification fee. The failure of any contractor to renew a contractor's license by March 31 requires any contractor who does not meet the waiver requirements to retest, regardless of previous waivers issued, and start the application process for a brand new business license. To receive a contractor, electrician, or plumber's license, the contractor has to pass their respective test, unless they qualify for an exemption to the testing which might be in effect at that time.

(6) Contractors who fail to come in and take their required contractor tests within 30 days after the application date will have their application denied, their application will be returned to the finance department, and no refunds will be given. Any contractor who fails a test and does not come back within 30 days to take a subsequent test will forfeit their application fee and must submit a new application.

(Code 1989, § 14-33; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 11988, § 2, 1-23-2012; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12121, 8-4-2014; Ord. No. 12178, § 1, 11-16-2015)

Sec. 12-20. Issuance of license; contents.

(a) Upon the receipt of an application for a license under this chapter and the receipt of all fees therefor, the finance director shall conduct an investigation of the applicant; such investigation shall include a report from the code enforcement director, the police chief, fire chief and health officer, if appropriate. Upon the completion of the investigation, the finance director shall issue or deny the license on the basis of the investigation.

(b) Any applicant whose application was denied may request that the application be submitted to the city council for their review.

(c) Each license issued under this chapter shall state upon its face the following:

(1) The name of the licensee and any other name under which such business is to be conducted.

(2) The address of each business so licensed.

(3) The dates of issuance and expiration thereof.

(4) Such other information as the city council or the city manager shall determine to be necessary.

(d) The license required prior to commencing business operations shall be issued to a licensee within 60 days of receiving all documents, applications, fees and other items required to process such license.

(Code 1989, § 14-34; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-21. Procedures on non-approval of application.

When any license under this chapter is not approved, the following shall apply:

(1) *Engagement in business.* When the issuance of a license is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which such license was refused, unless a license is issued to the applicant pursuant to a judgment ordering the same.

(2) *Written notification.* If a license cannot be issued within 60 days of a license application submission, the finance director shall notify the applicant in writing with an explanation of the deficiency within five days of such determination.

(Code 1989, § 14-35; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013)

Sec. 12-22. Duties of licensee generally.

(a) *General standards of conduct.* Every licensee under this chapter shall:

(1) Permit all reasonable inspections of the business and examinations of the books by the finance director and the designated deputies, subject to the provisions of section 12-9.

(2) Ascertain at all times compliance with all laws and regulations applicable to such licensed business.

(3) Avoid fraud, misrepresentation or false statements made in the course of carrying on the business, avoid conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(4) Refrain from operating the licensed business on premises after expiration of the license and during the period the license is revoked.

(5) Allow fire inspections at the licensed premises of the business and maintain compliance with the city fire code at licensed premises. Noncompliance with the city fire code at licensed premises may subject the licensee to revocation of the applicable license.

(6) Allow property code inspections at the licensed premises of the business and maintain compliance with the city property maintenance code at licensed premises. Noncompliance with the city property maintenance code at licensed premises may subject the licensee to revocation of the applicable license.

(7) Keep current on all city obligations and all state tax obligations. Failure to keep current on all such obligations may subject the licensee to revocation of the applicable license.

(b) *Display of license and card, if applicable.*

(1) Every licensee under this chapter shall:

a. Post and maintain the license or insignia upon the licensed premises in a place where it may be seen at all times.

b. If applicable, carry an identification license card on the person when off the licensed business premises or when the person has no licensed business premises.

c. Affix any insignia delivered for use in connection therewith upon the outside of any coin, vending or other business machine or device, so that it may be seen at all times.

(2) The following shall apply to the display of licenses and cards on vehicles:

a. Any general or special license fee required for any kind of vehicle, for the privilege of being operated upon the public highways, by any statute or ordinance, shall not be abrogated, limited or affected by any requirements of this chapter.

b. Affix any insignia delivered for use in connection with a licensed motor vehicle on the inside of the windshield of the vehicle or as may be otherwise prescribed by the finance director or by law.

c. Affix any metal or other durable type of insignia delivered for use in connection with a wagon or other vehicle not operated by motor power securely on the outside of such vehicle.

(c) *Inoperative licenses, special permits and insignia.* A licensee shall not allow any license, special permit or insignia to remain posted, displayed or used after the period for which it was issued has expired, or when it has been revoked or for any other reason becomes ineffective.

(d) *Use of license, etc., by person other than licensee.* No licensee shall loan, sell, give or assign to any other person, or allow any other person to use or display or to destroy, damage or remove or to have in possession, except as authorized by the finance director or by law, any license or insignia which has been issued to such licensee.

(e) *Change of location.* A licensee shall have the right to change the location of the licensed business, provided that the licensee shall notify the finance director prior to the change of location. Change in business location will require an investigation by the code enforcement director, the police chief, fire chief and health officer, if appropriate, to determine whether business can be conducted and a license can be issued for that location.

(f) *Records.* A licensee shall keep all records and books necessary to the computation of the gross receipts fee, if applicable, and to the enforcement of this chapter. The finance director shall make a determination as to the financial statement for any business where the licensee has failed to keep books and records as required herein.

(g) *Indefinite cessation of operations.* The licensee shall notify the city in writing of sale of business or indefinite cessation of business operations in the city and, if applicable, notify the new owner to file an application with the city. Failure to do so is a violation of this chapter.
(Code 1989, § 14-36; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013)

Sec. 12-23. Persons exempted from chapter.

(a) The terms of this chapter shall not be interpreted to include persons selling for nonresident, bona fide wholesale establishments to retail dealers in the city, nor to delivery persons whose employers have been duly licensed by the city, nor shall it include or apply to farmers or producers, or any employee of any farmer or producer, who offers for sale or sells any market fruits, vegetables or garden products grown by such farmer or producer from lands cultivated by such farmer or producer within the state. All attractions, devices, races or exhibitions under direct contract with the NEMO Fair Association are exempt from the provisions of this chapter during the annual NEMO Fair. For all other events, the NEMO Fair Association will provide the city with a list of all vendors and ensure that these vendors comply with state sales tax rules and hold a valid state sales tax certificate for the city.

(b) A person under the age of 18 years shall be exempt from the provisions of this chapter provided such person meets all of the following requirements:

(1) The minor person conducting business is currently enrolled in school and has not yet graduated from high school;

(2) The business activity is conducted only during spare time from school or during school vacation;

(3) The business activity produces not more than $1,000.00 in gross receipts during any calendar year, and any profits therefrom accrue only to the minor person conducting the business;

(4) The minor person employs no person over the age of 17 years in the business for wages, salary, hire or profit.

(c) Any profession listed as exempt under RSMo 71.620 and 71.630 will be exempt from this chapter.

(d) These exemptions do not apply to any other laws, state and local, required in the conduct of business.
(Code 1989, § 14-37; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013; Ord. No. 12178, § 1, 11-16-2015)

Sec. 12-24. Compliance of wholesale dairy products distributors with city license requirement.

Effective from and after September 3, 1974, each and every wholesale distributor of dairy products will be required to have a city license, in accordance with section 12-2.
(Code 1989, § 14-38; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-25. Special event requirements and daily fees.

(a) Any person, firm, corporation or any nonprofit organization must complete a special event application as outlined by the city and adhere to the city council policy regarding the use of city facilities to conduct the special events listed herein. Some amusements also require licensure and/or inspection by the state. Proof of state license and/or registration may also be required to obtain a local license, if required.

(1) Carnivals, festivals, street fairs and exhibitions.

(2) Circuses and rodeos.

(3) Amusement rides and side shows/stands.

(b) All special events held on any property owned by the city must furnish the required proof of insurance for the event.

(c) The city may also require, as a condition of license issuance, the inspection of the special event location, including any buildings, tents, etc., and may also require the issuance of sanitation or health department approval where appropriate.

(d) The event sponsor is responsible for on-site vendors or concessionaires having a valid state sales tax license for sales located in the city. It is the responsibility of the event holder to provide the city with a list of all vendors and their state sales tax number, unless exempted by the state from collecting sales tax, prior to this event.

(e) Any event providing alcoholic beverages must be licensed in accordance with chapter 6.
(Code 1989, § 14-39; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-26. Requirement for issuance of building permits.

(a) All contractors and all subcontractors shall procure a license and pay a license fee prior to engaging in operations within the city, and shall be subject to the provisions under this chapter. No license shall be required of any person performing repair or remodeling work on their own property.

(b) No building permit shall be issued by the city to any contractor or subcontractor, for the construction, erection or the remodeling of any residence, building, bridge, stonework, street, sidewalk, driveway, parking lot, utility line or other structure, or any parts thereof, unless the contractor or subcontractor therefor has procured and paid for the license required by this chapter.
(Code 1989, § 14-40; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-27. Responsible party.

If any person currently or formerly involved in the management of the business operations or has held the position as an active officer, director or registered agent involved in the daily operations of the business, whether it is a sole proprietorship, partnership or corporation, and the business owes any city obligation incurred during the time when the person either participated in or managed its daily affairs, then no license shall be issued to that person until the delinquent obligation is paid.
(Code 1989, § 14-42; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-28. Notice of violation and revocation.

(a) Notice of violation.

(1) The finance department is hereby authorized and empowered to revoke any current license issued if the licensee fails to pay or has:

a. Any tax of any kind outstanding due to the state; or

b. Any obligation due to the city.

(2) No revocation shall become effective until the finance department has notified the licensee, or any person that is in charge of any definite place of business maintained by the licensee in the city, in writing by certified mail of the grounds for revocation of the license and has provided the licensee up to 21 days from time of date of mailing to correct the cause for revocation. If the cause has not been corrected within that time period,

then the license shall be revoked and subject to actions as provided for in this chapter.

(b) Outstanding state taxes. A statement of no tax due issued by the state department of revenue will be required prior to issuance or continuance of a license. The effective date on the statement of no tax due shall be dated no more than 90 days prior to its submission to the finance department for license reissuance.

(c) Disconnection from water or sewer system. The service address of any business that is operating without a license in violation of this section and which is directly connected to the city water and/or sewer utility system, shall be disconnected from the city water and/or sewer utilities if such violation is not corrected within 21 days after mailing of notice of violation.

(d) A revocation, once effective, shall place the licensee in such position as if a license had never been obtained.

(e) Revocation of a license will subject the licensee to concurrent revocation of any current liquor license for that business.
(Code 1989, § 14-43; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-29. Enforcement and penalties for nonrenewal of license and continuing business, etc.

(a) *Delay in payment.* All license fees as provided for in this chapter for renewals shall be deemed delinquent if not paid by March 1 of the license year.

(b) *Renewal delinquency.* If any person shall continue the business after the expiration of a license previously issued, without obtaining a new license, such person shall be subject to interest and penalty if a delinquent license is not renewed and issued prior to March 1. The interest shall be assessed on the amount due until it is paid using the state department of revenue statutory interest rate for delinquencies, as required by RSMo. 71.625, 144.170, and 32.065. The penalty shall be assessed according to RSMo. 71.625 and 144.250. The interest and penalty shall be assessed and paid along with the renewal license fee. Delinquent applications will not be processed until all amounts are paid in full. A renewal will not be permitted once a revocation becomes effective.

(c) *Operating without a valid business license.* If a license is revoked for failure to renew, such licensee shall be guilty of an ordinance violation and, unless otherwise specifically provided by law, shall, on conviction thereof, be fined for each separate offense. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(d) *Disconnection from water or sewer system.* The service address of any business that is operating without a license in violation of this section and which is directly connected to the city water and/or sewer utility system, shall be disconnected from the city water and/or sewer utilities during the revocation process.
(Code 1989, § 14-44; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12040, § 1, 1-28-2013)

Secs. 12-30—12-49. Reserved.

ARTICLE II. PEDDLERS, SOLICITORS AND CANVASSERS

Sec. 12-50. Exception.

This article shall not apply to a federal, state or local government employee or a public utility employee in the performance of duty for an employer.
(Code 1989, § 14-77; Ord. No. 11610, § 2, 3-17-2003)

Sec. 12-51. Identification card required for peddlers and solicitors, available for canvassers.

No person shall act as a peddler and no person residing outside the county shall act as a solicitor within the city without first obtaining an identification card in accordance with this article. A canvasser is not required to have an identification card but any canvasser wanting an identifica-

tion card for the purpose of reassuring city residents of the canvasser's good faith shall be issued one upon request.
(Code 1989, § 14-78; Ord. No. 11610, § 3, 3-17-2003)

Sec. 12-52. Fee.

The fee for the issuance of each identification card is included in the city's fee schedule.
(Code 1989, § 14-79; Ord. No. 11610, § 4, 3-17-2003)

Sec. 12-53. Application for identification card.

Any person or organization (formal or informal) may apply for one or more identification cards by completing an application form at the office of the issuing officer, during regular office hours.
(Code 1989, § 14-80; Ord. No. 11610, § 5, 3-17-2003)

Sec. 12-54. Contents of application.

The applicant (person or organization) shall provide the following information:

(1) Name of applicant.

(2) Number of identification cards required.

(3) The name, physical description and photograph of each person for which a card is requested. In lieu of this information, a driver's license, state identification card, passport, or other government-issued identification card (issued by a government within the United States) containing this information may be provided, and a photocopy taken. It shall be the responsibility of the applicant to provide photos suitable for use on identification cards. Photo identifications shall be required for persons aged 16 years and over, and recommended for those under the age of 16 years.

(4) The permanent and (if any) local address of the applicant.

(5) The permanent and (if any) local address of each person for whom a card is requested.

(6) A brief description of the proposed activity related to this identification card. (Copies of literature to be distributed may be substituted for this description at the option of the applicant.)

(7) Date and place of birth for each person for whom a card is requested and (if available) the Social Security number of such person.

(8) A list of all infraction, offense, misdemeanor and felony convictions of each person for whom a card is requested for the seven years immediately prior to the application.

(9) The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by each person for whom a card is requested.

(10) If the application is for a peddler:

a. The name and permanent address of the business offering the event, activity, good or service (i.e., the peddler's principal).

b. A copy of the principal's sales tax license as issued by the state, provided that no copy of a license shall be required of any business which appears on the city's annual report of sales tax payees as provided by the state department of revenue.

c. The location where books and records are kept of sales which occur within the city and which are available for city inspection to determine that all city sales taxes have been paid.

(11) If the application is for a solicitor:

a. The name and permanent address of the organization, person, or group for whom donations (or proceeds) are accepted.

b. The web address for the organization, person, or group (or other address) where residents having subsequent questions can go for more information.

(12) Any other information the applicant wishes to provide, including copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

(Code 1989, § 14-81; Ord. No. 11610, § 6, 3-17-2003)

Sec. 12-55. Issuance of identification card.

The identification cards shall be issued as soon as possible after application review, unless it is determined within that time that:

(1) The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven years;

(2) The applicant, or organization of the applicant, has an established history with the city of violating the terms and conditions of this article;

(3) With respect to a particular card, the individual for whom a card is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven years; or

(4) Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

(Code 1989, § 14-82; Ord. No. 11610, § 7, 3-17-2003)

Sec. 12-56. Investigation.

During the period of time following the application for one or more identification cards and its issuance, the city shall investigate as to the truth and accuracy of the information contained in the application. If the city has not completed this investigation as provided in section 12-55, the identification card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation. If a canvasser requests an identification card, the investigation will proceed as described above, but if the city refuses to issue the identification card (or revokes it after issuance), the canvasser will be advised that the failure to procure an identification card does not prevent the canvasser from canvassing the residents of the city.

(Code 1989, § 14-83; Ord. No. 11610, § 8, 3-17-2003)

Sec. 12-57. Denial; administrative revocation; hearing on appeal.

(a) If the issuing officer denies (or upon completion of an investigation revokes) the identification card to one or more persons, the officer shall immediately convey the decision to the applicant orally and shall within 16 working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral notification, and even before the preparation of the written report, the applicant shall have at the option an appeal before the city manager.

(1) An appeal hearing before the city manager will be scheduled within ten days of the request, due notice of which is to be given to the applicant.

(2) If the applicant requests a hearing before the city manager, the hearing shall be held in accordance with the Administrative Procedure Act of the state, and review from the decision (on the record of the hearing) shall be had to the circuit court of the county in which the city is located. The hearing shall also be subject to the Missouri Open Meetings and Records Law.

(b) No person shall be issued an identification card if the person is required to register as a sex offender under RSMo 589.400.

(Code 1989, § 14-85; Ord. No. 11610, § 10, 3-17-2003)

Sec. 12-58. Display of identification card.

Each identification card shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of

the individual, as so to be reasonably visible to any person who might be approached by said person.
(Code 1989, § 14-86; Ord. No. 11610, § 11, 3-17-2003)

Sec. 12-59. Validity of identification card.

An identification card shall be valid within the meaning of this article for a period of six months from its date of issuance or the term requested, whichever is less.
(Code 1989, § 14-87; Ord. No. 11610, § 12, 3-17-2003)

Sec. 12-60. Revocation of card.

(a) In addition to the administrative revocation of an identification card, a card may be revoked for any of the following reasons:

(1) Any violation of this article by the applicant or by the person for whom the particular card was issued.

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.

(3) Conviction of any felony or a misdemeanor involving moral turpitude within the last seven years.

(4) Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

(b) The revocation procedure shall be initiated by the filing of a complaint by the city attorney or the issuing officer pursuant to the Missouri Administrative Procedure Act, and a hearing before the city manager as described in section 12-57.
(Code 1989, § 14-88; Ord. No. 11610, § 13, 3-17-2003)

Sec. 12-61. No visit list.

The issuing officer shall maintain a list of persons within the city who restrict visits to their residential property (including their leasehold, in the case of a tenant) by peddlers, solicitors, and canvassers. The issuing officer may provide a form to assist residents, and this form may allow the resident to select certain types of visits that the resident finds acceptable while refusing permission to others. This no visit list shall be a public document, reproduced on the city's website and available for public inspection and copying. A copy of the no visit list shall be provided to each applicant for and each recipient of an identification card. If a canvasser chooses not to apply for an identification card, it will be the responsibility of that canvasser to obtain in some other way a copy of the current no visit list.
(Code 1989, § 14-89; Ord. No. 11610, § 14, 3-17-2003)

Sec. 12-62. Distribution of handbills and commercial flyers.

In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:

(1) No handbill or flyer shall be left at, or attached to, any sign, utility pole, transit shelter or other structure within the public right-of-way. The police are authorized to remove any handbill or flyer found within the right-of-way.

(2) No handbill or flyer shall be left at, or attached to, any privately owned property in a manner that causes damage to such privately owned property.

(3) No handbill or flyer shall be left at, or attached to, any property:

a. Listed on the city no visit list; or

b. Having a "no solicitor" sign of the type described in section 12-63(a)(1) and (2).

(4) Any person observed distributing handbills or flyers shall be required to identify said person to the police (either by producing an identification card or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the city receives a

complaint of damage caused to private property during the distribution of handbills or flyers.

(Code 1989, § 14-90; Ord. No. 11610, § 15, 3-17-2003)

Sec. 12-63. General prohibitions.

(a) No peddler, solicitor or canvasser shall:

(1) Enter upon any private property where the property owner has clearly posted in the front yard a sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting and/or canvassing. Such sign need not exceed one square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two inches in height. (The phrase "no soliciting" or "no solicitors" shall also prohibit peddlers and canvassers.)

(2) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor or canvasser.

(3) Enter upon any private property where the current occupant has posted the property on the city's no visit list (except where the posting form indicates the occupant has given permission for this type of visit), regardless of whether a front yard sign is posted.

(4) Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.

(5) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.

(6) Enter upon the property of another except between the hours of 9:00 a.m. and 8:00 p.m. in the hours of Central Standard Time, and 9:00 a.m. and 9:00 p.m. in the hours of Central Daylight Time.

(b) Except that the above prohibitions shall not apply when the peddler, solicitor, or canvassers has an express invitation from the resident or occupant of a dwelling allowing entrance upon any posted property.

(Code 1989, § 14-91; Ord. No. 11610, § 16, 3-17-2003)

Sec. 12-64. Violation to be prosecuted as trespass.

Any person violating any part of this article shall have committed a trespass on such property, and shall be prosecuted under the general trespass ordinance of the city. The penalty for such violation shall be the same as for any other trespass.

(Code 1989, § 14-92; Ord. No. 11610, § 17, 3-17-2003)

Secs. 12-65—12-86. Reserved.

ARTICLE III. CIGARETTES

Sec. 12-87. 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:

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.

Occupation license tax means the tax imposed by the city under this article upon the business for the privilege of selling cigarettes at retail in the city.

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.

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.

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.

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 1989, § 14-106; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-88. 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 pay to the finance director a business license tax at the rate provided in the city fee schedule for all cigarettes sold, offered, delivered or displayed for sale.
(Code 1989, § 14-107; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-89. Payment of tax.

(a) *Payment due date.* The tax provided by section 12-88 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 city finance director a tax at the rate provided in the city fee schedule. Payment of tax will be submitted with the report due each 15th day of the month.
(Code 1989, § 14-108; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-90. Sale of cigarettes.

No person shall sell or offer or display for sale at retail any cigarettes unless said tax has been paid.
(Code 1989, § 14-109; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-91. Examination of books, records, other pertinent data, equipment.

The finance director 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 business license tax imposed and assessed by this article, each such person is directed and required to give to the finance director or duly authorized representatives the means, facilities and opportunity for such examinations as are provided for and required in this section.
(Code 1989, § 14-116; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-92. Power to prescribe rules and regulations.

In addition to the other powers granted, the finance director 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 finance director 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 1989, § 14-117; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-93. 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 finance director 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.

(Code 1989, § 14-118; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-94. Confiscation of untaxed cigarettes.

(a) When the finance director or designee discovers cigarettes upon which tax due pursuant to this article has not been paid, the director or designee is authorized to seize the cigarettes which shall thereupon be deemed forfeited to the city.

(b) The finance director 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 percent thereof and the costs incurred in such proceedings. The finance director 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 1989, § 14-119; Ord. No. 11268, § 1, 11-4-1996)

Sec. 12-95. Power to administer oaths, take affidavits, issue subpoenas.

The finance director 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 finance director 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 1989, § 14-120; Ord. No. 11268, § 1, 11-4-1996)

Secs. 12-96—12-132. Reserved.

ARTICLE IV. FARMERS' MARKET

Sec. 12-133. Purpose.

The city and the Kirksville Kiwanis Club established the farmers' market in the city to support local farmers by providing an opportunity to sell their fresh foods, homemade and handcrafted products to the public. Other vendors are offered the same opportunity to sell fresh foods, homemade and handcrafted products to the public. Fresh foods/products must have been grown, gathered, raised or caught within a 50-mile radius of the city. In addition to the food, homemade and handcrafted products, the Kirksville Kiwanis Club will be allowed to sell raffle tickets to raise funds to support other Kirksville Kiwanis' programs and projects.

(Code 1989, § 14-141; Ord. No. 10355, § 1, 6-5-1979; Ord. No. 11701, § 1, 2-28-2005; Ord. No. 11769, § I, 8-2-2006; Ord. No. 11921, § 1, 4-19-2010; Ord. No. 12273, § 1, 3-5-2018)

Sec. 12-134. Denial of use.

The city manager or designee or the club's designee or representative is authorized to cancel a stall or space without refund; and to remove persons from the premises, or deny future use of a stall or space in the farmers' market to persons failing to comply with the provisions of this

article, or who fail to comply with any lawful administrative rules/requirements established by the club.
(Code 1989, § 14-142; Ord. No. 10355, § 1, 6-5-1979; Ord. No. 11921, § 3, 4-19-2010)

Sec. 12-135. Size of spaces.

Spaces shall be provided at the farmers' market as determined by the club based upon the space available compared to the number of vendors present and eligible to sell.
(Code 1989, § 14-143; Ord. No. 10355, § 1, 6-5-1979; Ord. No. 12273, § 1, 3-5-2018)

Sec. 12-136. Location and hours.

(a) The farmers' market is authorized to use Elson Street and the adjoining sidewalk between Harrison and Washington each Saturday, commencing the first Saturday in May and ending the last Saturday in October. The selling hours shall be held from 7:00 a.m. to 12:00 noon. An extension of hours during annual/special events may be granted by the city manager, upon a request from a Kiwanis representative prior to the event being held.

(b) The farmers' market vendors shall not set up their selling stall any earlier than 5:00 a.m. on the Saturday market day. The vendors shall have their selling stall clear and free of all refuse and out of the roadway no later than 12:30 p.m. on the same Saturday market day.
(Code 1989, § 14-144; Ord. No. 11921, § 2, 4-19-2010; Ord. No. 12273, § 1, 3-5-2018)

Sec. 12-137. Rates.

Stall fees shall be charged by the day. The stall or space fees are payable to the designated Kiwanis representative on the market day. The city manager is authorized to establish rates from time to time, or as needed based on input from the Kirksville Kiwanis Club.
(Code 1989, § 14-145; Ord. No. 11921, § 5, 4-19-2010; Ord. No. 12273, § 1, 3-5-2018)

Sec. 12-138. Taxation.

Farmers and vendors must adhere to state sales tax laws regarding farmers' markets. If farmers and vendors are required to collect and remit state sales tax for fresh farm-grown products sold at the farmers' market, their sales tax license must identify the city as a sales location.
(Code 1989, § 14-146; Ord. No. 11921, § 7, 4-19-2010)

Sec. 12-139. Pole banners.

Pole banners are allowed in the downtown area to promote the farmers' market from April 1 through October 31. No special event application is required.
(Code 1989, § 14-147; Ord. No. 12217, § 1, 9-19-2016)

Sec. 12-140. Restrictions.

In order to maintain uniform policies concerning items offered for sale at the farmers' market, the following rules and regulations are established:

(1) Items that may be offered for sale:

a. Fresh produce grown within a 50-mile radius of the city.

b. Fish and USDA inspected meat.

c. Eggs. Must meet state law requirements that growers who produce and sell their own eggs at a farmers' market need to have a retailer's license and a dealer's license. A vendor who purchases eggs from a producer needs to have a retailer's license only.

d. Other items in accordance with local food safety guidelines and considered to be acceptable by the Kiwanis representative.

e. Kirksville Kiwanis Club sponsored raffles, as allowed by article III, section 39(f) of the constitution of the state, so long as the proceeds from said raffle are used to support scholarships and other Kiwanis projects and programs.

(Code 1989, § 14-148; Ord. No. 10355, § 4, 6-5-1979; Ord. No. 11701, § 3, 2-28-2005; Ord. No. 11921, § 6, 4-19-2010; Ord. No. 12273, § 1, 3-5-2018)

Sec. 12-141. Penalty.

It shall be unlawful for any person to violate any provision, or fail to comply with any provision, of this article. Any person so violating or failing to comply with any provision of this article shall be guilty of an ordinance violation and be punishable as provided in section 1-8.
(Code 1989, § 14-149; Ord. No. 11921, § 8, 4-19-2010)

Secs. 12-142—12-165. Reserved.

ARTICLE V. PAWNBROKERS AND SECONDHAND DEALERS

Sec. 12-166. Definitions.

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

Pawnbroker means any person who loans money, the payment of which is secured by a security interest in tangible personal property, the physical possession of which is delivered into the hands of the lender at the time of the making of the loan, or who deals in the purchase of tangible personal property, on condition of selling the same back again at a stipulated price.

Secondhand dealer means any person holding a license who regularly deals in the purchase of tangible personal property which is not new, or purchased when new from any other than a regular dealer.
(Code 1989, § 14-166; Ord. No. 10752, § 1, 1-19-1987; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-167. Violations; penalty.

If any pawnbroker or secondhand dealer, or agent or employee, shall violate any of the provisions of this article, then such person shall be deemed guilty of an ordinance violation and, upon conviction thereof, shall be fined as provided in section 1-8.
(Code 1989, § 14-167; Ord. No. 10752, § 5, 1-19-1987)

Sec. 12-168. Register to be kept.

Every pawnbroker or secondhand dealer shall keep at place of business a clean and legible register with a detailed description of all tangible personal property taken, purchased or received, including any number that may be in or upon any article, together with the time and date, and a complete description of the person leaving or selling the property, giving name, age, nationality, sex, color of eyes and hair, height, weight, physical defects, and place of residence including street and number. In the event any article is thereafter sold, a like register shall be kept giving a detailed description of the article sold, together with the time and date and a description of the person to whom such article was sold, giving name, age, nationality, sex, color of eyes and hair, height, weight, physical defects and place of residence including street and number. The amount loaned or the amount for which any article is sold or purchased, as the case may be, shall also be entered into the register. All entries shall be made within one hour after the receipt or purchase of the property or within one hour after the sale of the property, as the case may be, and shall be made in ink, and shall not in any manner be erased, obliterated or defaced.
(Code 1989, § 14-168; Ord. No. 10752, § 2, 1-19-1987)

Sec. 12-169. Register and articles to be open to inspection.

Every pawnbroker or secondhand dealer shall, upon request, show and exhibit the register and any article of property purchased, taken or received, to any officer of the police force of the city, during normal business hours.
(Code 1989, § 14-169; Ord. No. 10752, § 3, 1-19-1987)

Sec. 12-170. Dealing with minors, stolen property.

It shall be unlawful for any pawnbroker or secondhand dealer to purchase, take or receive in pledge or deposit any article of property from a minor or owned by any minor or any stolen property, or property which, from any cause, the

pawnbroker or dealer may have reason to believe or suspect cannot be lawfully or rightfully sold, pawned or pledged by the person offering it.
(Code 1989, § 14-170; Ord. No. 10742, § 4, 1-19-1987)

Secs. 12-171—12-193. Reserved.

ARTICLE VI. PUBLIC UTILITIES

DIVISION 1. GENERALLY

Secs. 12-194—12-224. Reserved.

DIVISION 2. ELECTRICITY

Sec. 12-225. Applicability.

The tax required in this division to be paid shall be in lieu of any other occupation tax required in this chapter of any person engaged in the businesses enumerated in section 12-88, but nothing contained in this division shall be so construed as to exempt any person from the payment to the city of the tax which the city levies upon the real or personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than electricity, nor shall the tax required in this division exempt any such person from the payment of any other tax which is described in section 12-226.
(Code 1974, § 12-59; Code 1989, § 14-216)

Sec. 12-226. Fees levied.

(a) Every person engaged in the business of supplying electricity for compensation for any purpose in the city shall pay to the city as a license fee a sum equal to five percent of the gross revenue derived from such business, exclusive of sales to the municipality.

(b) Effective September 19, 2011, pursuant to RSMo 393.275, and any other applicable authority, the city shall maintain the rates of its business license fees on the gross receipts of public utility corporations without reduction notwithstanding any period fluctuations in the tariffs of such public utility corporation or any notice thereof, including, but not limited to, notice sent under RSMo 393.275.
(Code 1974, § 12-60; Code 1989, § 14-217; Ord. No. 10672, § 1, 6-18-1985; Ord. No. 10716, § 1, 5-9-1986; Ord. No. 12041, § 1, 2-4-2013; Ord. No. 12182, § 1, 12-7-2015)

Sec. 12-227. When fee due and payable.

Every person engaged in the business described in section 12-226 shall pay to the finance department on or before the 15th day of each month the fee imposed by the provisions of this division for the preceding calendar month or part thereof.
(Code 1974, § 12-61; Code 1989, § 14-218; Ord. No. 12182, § 1, 12-7-2015)

Sec. 12-228. Filing of monthly statements; investigation of books, etc.

It is hereby made the duty of every person engaged in the business described in this division, to file with the finance department on or before the 15th day of each month a sworn statement of the gross receipts of such persons from such business for the preceding calendar month or part thereof. The finance director, deputy or authorized agent shall be and are hereby authorized to investigate the correctness and accuracy of such statement required and, for that purpose, shall have access, at all reasonable times and business hours, to inspect the books, documents, papers and records of any such person so making such statement, in order to ascertain the accuracy thereof.
(Code 1974, § 12-62; Code 1989, § 14-219)

Secs. 12-229—12-276. Reserved.

DIVISION 3. VIDEO SERVICE PROVIDERS

Sec. 12-277. Ratification of existing video franchise.

(a) To the extent permitted by the 2007 Video Services Providers Act, RSMo 67.2675 et seq., the city council hereby ratifies all existing agreements, franchises, Code provisions and ordinances regulating cable television operators and other video service providers, including the imposition

of a franchise fee of five percent imposed on the gross revenues of all such providers, and further declares that such agreements, franchises and ordinances shall continue in full force and effect until expiration as provided therein or until pre-empted by the issuance of video service authorizations by the state public service commission or otherwise by law, but only to the extent of said pre-emption.

(b) It shall be unlawful for any person to provide video services, as defined in section 12-278, within the city without an agreement, franchise or ordinance approved by the city or a video service authorization issued by the state public service commission.
(Code 1989, § 14-235; Ord. No. 12031, § 1, 11-19-2012)

Sec. 12-278. Video service regulations.

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

Franchise area means the total geographic area of the city authorized to be served by an incumbent cable television operator or incumbent local exchange carrier or affiliate thereof.

Gross revenues.

(1) The term "gross revenues" means the total amounts billed to subscribers or received by an entity holding a video service authorization from advertisers for the provision of video services within the city, including:

a. Recurring charges for video service;

b. Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges;

c. Rental of set-top boxes and other video service equipment;

d. Service charges related to the provision of video service, including, but not limited to, activation, installation, repair and maintenance charges;

e. Administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges; and

f. A pro rata portion of all revenue derived, less refunds, rebates or discounts, by a video service provider for advertising over the video service network to subscribers, where the numerator is the number of subscribers within the city and the denominator is the total number of subscribers reached by such advertising.

(2) But the term "gross revenues" does not include:

a. Discounts, refunds and other price adjustments that reduce the amount of compensation received by an entity holding a video service authorization;

b. Uncollectibles;

c. Late payment fees;

d. Amounts billed to subscribers to recover taxes, fees or surcharges imposed on subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized herein;

e. Fees or other contributions for PEG or I-net support; or

f. Charges for services other than video service that are aggregated or bundled with amounts billed to subscribers, provided the video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means.

(3) Except with respect to the exclusion of the video service provider fee, gross

revenues shall be computed in accordance with generally accepted accounting principles.

Household means an apartment, a house, a mobile home or any other structure or part of a structure intended for residential occupancy as separate living quarters.

Low-income household means a household with an average annual household income as determined by the most recent annual Housing and Urban Development (HUD), section 8 income limits for a four-person household.

Person means an individual, partnership, association, organization, corporation, trust or government entity.

Subscriber means any person who receives video services in the franchise area.

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

Video service authorization means the right of a video service provider or an incumbent cable operator that secures permission from the state public service commission pursuant to RSMo 67.2675 to 67.2714, to offer video service to subscribers.

Video service network means wireline facilities, or any component thereof, that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "video service network" shall include cable television systems.

Video service provider or *provider* means any person authorized to distribute video service through a video service network pursuant to a video service authorization.

Video service provider fee means the fee imposed under subsection (c) of this section.

(b) *General regulations.*

(1) A video service provider shall provide written notice to the city at least ten days before commencing video service within the city. Such notice shall also include:

a. The name, address and legal status of the provider;

b. The name, title, address, telephone number, e-mail address and fax number of individuals authorized to serve as the point of contact between the city and the provider so as to make contact possible at any time (i.e., 24 hours per day, seven days per week); and

c. A copy of the provider's video service authorization issued by the state public service commission.

(2) A video service provider shall also notify the city, in writing, within 30 days of:

a. Any changes in the information set forth in or accompanying its notice of commencement of video service; or

b. Any transfer of ownership or control of the provider's business assets.

(3) A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the area in which the group resides. A video service provider shall be governed in this respect by RSMo 67.270. The city may file a complaint in a court of competent jurisdiction alleging a germane violation of this subsection, which complaint shall be acted upon in accordance with RSMo 67.271.

(4) A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system

applicable to cable operators. Any video service provider other than an incumbent cable operator serving a majority of the residents within a political subdivision shall comply with this subsection by December 31, 2007.

(5) A video service provider shall, at its sole cost and expense, indemnify, hold harmless and defend the city, its officials, boards, board members, commissions, commissioners, agents and employees, against any and all claims, suits, causes of action, proceedings and judgments (claims) for damages or equitable relief arising out of:

a. The construction, maintenance, repair or operation of its video services network;

b. Copyright infringements; and

c. Failure to secure consents from the owners, authorized distributors or licensees or programs to be delivered by the video service network.

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

(c) *Video service provider fee; records open to inspection.*

(1) Each video service provider shall pay to the city a video service provider fee in the amount of five percent of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The city may adjust the video service provider fee as permitted in RSMo 67.2689.

(2) A video service provider may identify and pass through on a proportionate basis the video service provider fee as a separate line item on subscribers' bills.

(3) The city, not more than once per calendar year and at its own cost, may audit the gross revenues of any video service provider as provided in RSMo 67.2691. A video service provider shall make available for inspection all records pertaining to gross revenues at the location where such records are kept in the normal course of business.

(d) *Customer service regulations.*

(1) The following words, terms and phrases, when used in this subsection (d), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Normal business hours means those hours during which most similar businesses in the community are open to serve customers. In all cases the term "normal business hours" must include some evening hours at least one night per week or some weekend hours.

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

Service interruption means the loss of picture or sound on one or more video channels.

(2) All video service providers shall adopt and abide by the following minimum customer service requirements:

a. Video service providers shall maintain a local, toll-free or collect call telephone access line which may be available to subscribers 24 hours a day, seven days a week.

b. Video service providers shall have trained company representatives available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to, by a trained company representative, on the next business day.

c. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.

d. Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.

e. Customer service centers and bill payment locations shall be open at least during normal business hours and shall be conveniently located.

f. Under normal operating conditions, each of the following standards shall be met no less than 95 percent of the time, measured on a quarterly basis:

1. Standard installations shall be performed within seven business days after an order has been placed. Standard installations are those that are located up to 125 feet from the existing distribution system.

2. Excluding conditions beyond the control of the operator, the video service provider shall begin working on service interruptions promptly and in no event later than 24 hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem.

3. The appointment window alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

4. A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

5. If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appoint-

ment shall be rescheduled, as necessary, at a time convenient for the customer.

g. Refund checks shall be issued promptly, but no later than either:

1. The customer's next billing cycle following resolution of the request or 30 days, whichever is earlier; or

2. The return of the equipment supplied by the video service provider if the service is terminated.

h. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

i. Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates as required under 47 USC 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.

(3) As required by RSMo 67.2692, this subsection (d) shall be enforced only as follows:

a. Each video service provider shall implement an informal process for handling inquiries from the city and customers concerning billing issues, service issues and other complaints. If an issue is not resolved through this informal process, the city may request a confidential non-binding mediation with the video service provider, with the costs of such mediation to be shared equally between the city and the video service provider.

b. In the case of repeated, willful and material violations of the provisions of this subsection (d) by a video service provider, the city may file a complaint on behalf of a resident harmed by such violations with the state's administrative hearing commission seeking an order revoking the video service provider's public service commission authorization. The city or a video service provider may appeal any determination made by the administrative hearing commission under this subsection to a court of competent jurisdiction, which shall have the power to review the decision de novo. The city shall not file a complaint seeking revocation unless the video service provider has been given 60 days' notice to cure alleged breaches but has failed to do so.

(e) *Public, educational and government access programming.*

(1) Each video service provider shall designate the same number of channels for noncommercial public, educational or governmental (PEG) use as designated by the incumbent cable operator.

(2) Any PEG channel that is not substantially utilized by the city may be reclaimed and programmed by the video service provider at the provider's discretion. If the city finds and certifies that a channel that has been reclaimed by a video service provider will be substantially utilized, the video service provider shall restore the reclaimed channel within 120 days. A PEG channel shall be considered substantially utilized when 40 hours per week are locally programmed on that channel for at least three consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four times during a calendar week.

(3) The operation of any PEG access channel and the production of any programming

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

(4) The city shall make the programming of any PEG access channel available to all video service providers in a nondiscriminatory manner. Each video service provider shall be responsible for providing the connectivity to the city or its duly appointed agent's PEG access channel distribution points existing as of August 27, 2007. Where technically necessary and feasible, video service providers shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms and conditions for the purpose of transmitting PEG programming. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one point per headend, regardless of the number of political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable method of connection acceptable to the person providing the interconnect.

(5) The franchise obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities existing on August 27, 2007, shall continue until the date of franchise expiration (ignoring any early termination by virtue of issuance of a video service authorization). Any other video service provider shall have the same obligation to support PEG access facilities as the incumbent cable operator, but if there is more than one incumbent, then the incumbent with the most subscribers as of August 27, 2007. Such obligation shall be prorated, depending on the nature of the obligation, as provided in RSMo 67.2703.8. The city shall notify each video service provider of the amount of such fee on an annual basis, beginning one year after issuance of the video service authorization.

(6) A video service provider may identify and pass through as a separate line item on subscribers' bills the value of monetary and other PEG access support on a proportionate basis.

(f) *Compliance with other regulations.* All video service providers shall comply with all other applicable laws and regulations.
(Code 1989, § 14-236; Ord. No. 12031, § 1, 11-19-2012)

Secs. 12-279—12-304. Reserved.

ARTICLE VII. ALARMS

Sec. 12-305. 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:

Alarm business means any individual, partnership, corporation, or other entity in which the owners or employees engage in the activity or

altering, selling, installing, leasing, maintaining, repairing, replacing, servicing, or responding in any manner to alarm systems.

Alarm system means any assembly of equipment and devices or a single device such as a solid state unit which uses electrical energy to signal the presence of a hazard requiring urgent attention and to which police or firefighters are expected to respond. The term "alarm system" includes, but is not limited to, the terms "automatic holdup/fire alarm systems," "burglar alarm systems," "holdup alarm systems" and "manual holdup alarm systems," as those terms are hereinafter defined.

Annunciator means an alarm console at the receiving terminal (police or fire departments) of a signal line through which either visual and/or audible signals show when an alarm device at a particular location has been activated.

Answering service means any telephone answering service providing, among its services, the service of receiving, on a continuous basis through trained employees, emergency signals from alarm systems, and thereafter immediately replaying the message by live voice to the communication center of the police department.

Automatic dialing device means any alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

Automatic holdup/fire alarm system means any alarm system in which the signal transmission is initiated by the action of the robber; any alarm system in which the signal transmission is initiated to represent any situation to which the fire department would respond.

Burglar alarm system means any alarm system signaling an entry or attempted entry into the area protected by the system.

False alarm means any activation of an alarm system through mechanical failure, malfunction, improper installation, without an unlawful entry or other condition which the alarm is designed to detect, or through the negligent or intentional acts of the owner or lessee of an alarm system or of the owner's or lessee's employees or agents or other causes.

Holdup alarm system means any alarm system signaling a robbery or attempted robbery.

Local alarm system means any signaling system which when activated causes an audible and/or visual signaling device to be activated in or on the premises within which the system is installed.

Manual holdup alarm system means any alarm system in which the signal transmission is initiated by the direct action of a person who is a victim of or a witness to an event for which the alarm is purposed.

Modified central station means any facility other than a police or fire department which receives notification of an active alarm and who is responsible for notifying police/fire departments.

Subscriber means any person who buys, leases, or otherwise obtains an alarm signaling system or contracts with or hires an alarm business to monitor or service the alarm device.
(Code 1989, § 14-241; Ord. No. 11082, § 1, 5-3-1993)

Sec. 12-306. Alarm registration.

Each subscriber to any type of alarm which may require a police or fire department response is required to register the alarm with the police/fire department prior to completion of installation. There is no fee for registering an alarm system. Separate registration is required for each separate structure having a different address.
(Code 1989, § 14-242; Ord. No. 11082, § 2, 5-3-1993)

Sec. 12-307. Automatic dialing devices and prohibited systems.

No person shall interconnect any automatic dialing device to a police or fire department primary trunk line and no person shall permit such devices to remain interconnected from any property owned or controlled by that person without the written authorization of the police/fire chief. Such devices may be interconnected to

a modified central station or an answering service. The police chief may approve a direct line installation between a modified central station or an answering service to the police or fire departments, with full costs to be borne by the person or business operating the station or service. No person shall operate or use an alarm system that emits an audible sound where such emission does not automatically cease within 15 minutes.
(Code 1989, § 14-243; Ord. No. 11082, § 3, 5-3-1993)

Sec. 12-308. Personnel to respond to alarm.

(a) The subscriber shall provide the police department with the name and telephone number of the alarm business with whom the subscriber has contracted. The subscriber shall also provide the names and telephone numbers of three persons who are authorized to respond to an emergency signal transmitted by the alarm device, who can be reached at any time of the day or night, and who can open the premises where the device is installed. If any such person refuses to cooperate with the police department, such refusal shall be a violation of this article. If any such person withdraws agreement to cooperate, the subscriber will at once furnish another person who has consented and meets the qualifications set forth in this section.

(b) The subscriber or subscriber's representative identified in the subsection (a) of this section shall respond to the location of the alarm within 15 minutes of the request of the police/fire departments.
(Code 1989, § 14-244; Ord. No. 11082, § 4, 5-3-1993)

Sec. 12-309. Direct connections; alarm testing.

(a) No alarm system designed to transmit emergency messages directly to the E911 center shall be:

(1) Tested or demonstrated without first notifying the E911 center; or

(2) Connected to the E911 center without express written consent of the E911 communications director, in consultation with the chief of the appropriate department.

(b) No direct connection of any alarm system designed to monitor an environmental condition shall be permitted. The city police/fire departments or the E911 center assumes no responsibility to test the condition of the alarm. Alarm testing is solely the responsibility of the subscriber or owner.
(Code 1989, § 14-245; Ord. No. 11082, § 5, 5-3-1993)

Sec. 12-310. Notification of malfunction or inoperable system.

When an alarm system malfunctions and/or is rendered inoperable, or whenever there is potential for interruption of service due to any reason, the subscriber shall promptly notify E911 center by telephone that protection is no longer being provided. The subscriber shall also notify the E911 center when the alarm system is in service again.
(Code 1989, § 14-246; Ord. No. 11082, § 6, 5-3-1993)

Sec. 12-311. False alarms.

(a) In determining whether an alarm is a false alarm, all circumstances shall be considered. Police officers or fire officials investigating false alarms shall make a careful check for signs of an occurrence that had abated before the officers or official's arrival which would have justified the use of the alarm.

(b) Any false alarm initiated by an alarm system and responded to by the police or fire department shall result in a service cost to the subscriber. However, a false alarm caused by a person other than the subscriber, subscriber's employee, or owner or lessee of the alarm system shall not be charged to the subscriber. False alarms as a result of a verifiable act of nature, such as tornadoes, floods, earthquakes, or other similarly violent conditions, shall not receive a service cost.
(Code 1989, § 14-247; Ord. No. 11082, § 7, 5-3-1993)

Sec. 12-312. Service costs.

(a) Service charges shall be assessed based upon the city's fee schedule.

(b) The warnings and service costs imposed by this section shall be waived for 30 days if the police chief or fire chief is notified within five working days of the installation of a new alarm system. Any false alarms initiated by an alarm system within the 30-day period shall not be counted in determining any warnings or service costs accruing after the 30-day period.

(c) Failure to pay service costs may be grounds for revocation of registration.

(f) Revocation of registration may be enforced and/or addressed by revocation/suspension of city business license, civil action, turning off city water service, or ten days after sending a notice of intent to the last address on file for the registration, notice is given of the intent to cease city response to future alarms.
(Code 1989, § 14-248; Ord. No. 11082, § 8, 5-3-1993)

Sec. 12-313. Termination of direct connection.

(a) The 911 communications director shall require the owner or lessee of any alarm system directly connected to the 911 center to disconnect such device until it is working in such a manner as will not produce a high frequency of false alarms. The 911 communications director may require disconnection of burglar/intrusion alarms if nine false alarms are received in any 90-day period. The police chief may, after giving notice to the subscriber, order disconnection of the system for noncooperation of the subscriber, or for violations of this article.

(b) A disconnection order shall be lifted if, after review of the alarm system and its operation, the police chief is satisfied that the fault has been corrected.

(c) If the 911 communications director does not feel that the fault has been corrected and refuses to lift the suspension, the subscriber may submit a written appeal to the police chief who shall organize a meeting of the appeals board and the subscriber within seven days of the postmarked date of the appeal letter. The appeals board shall determine whether the alarm system should be reconnected or whether the disconnection shall be continued until further evidence is presented to the police chief that the fault has been corrected.

(d) The 911 communications director shall appoint the appeals board consisting of one subscriber, one member of the police department and one other resident of the city.

(e) On the date of the reconnection of the alarm system, the false alarm count shall revert to zero.
(Code 1989, § 14-249; Ord. No. 11082, § 9, 5-3-1993)

Sec. 12-314. Obligation to instruct.

Each alarm business which installs or services an alarm system shall clearly instruct the subscriber in the proper use and operation of the alarm system as frequently as necessary, especially in those factors which can cause false alarms. Each subscriber which uses an alarm system shall clearly instruct the agents or employees in the proper use and operation of the alarm system.
(Code 1989, § 14-250; Ord. No. 11082, § 10, 5-3-1993)

Sec. 12-315. Maintenance and inspection.

(a) A subscriber shall maintain any alarm system in good working order, providing the necessary service to prevent false alarms, to prevent malfunctions endangering persons or property and to prevent other malfunctions.

(b) A subscriber shall cause any alarm system to be inspected regularly by a representative of the alarm business with a service contract or other person qualified to inspect and service such equipment, at least once every 12 months. Inspections shall be complete enough to detect any likely malfunctions and may include testing of the equipment. Particular attention shall be paid to the conditions that have the potential of causing false alarms. The person making the inspection shall make available a written report to the subscriber, and the report shall be kept for 12 months, and shall be made available on request during regular business hours to the police department or the fire department.

(c) The subscriber shall be responsible for maintaining the alarm system and shall look to the report of the inspector for guidance, but shall not limit the maintenance effort to matters on the report of the inspector.

(d) The owner of the annunciator, after notification by the police/fire department, is responsible for notifying the subscriber of "problem in the system" type alarms and/or "failure in the system" alarms.
(Code 1989, § 14-251; Ord. No. 11082, § 11, 5-3-1993)

Sec. 12-316. Confidentiality of information.

Subscriber information and the functional status of an alarm shall be kept confidential and not released to the general public.
(Code 1989, § 14-252; Ord. No. 11082, § 12, 5-3-1993)

Sec. 12-317. Responsibility for equipment.

The city shall not be responsible or liable for any equipment or annunciator located or placed in any building owned by the city regardless of the source of damage to such equipment, including the intentional acts of employees or others. Each person installing annunciators within a city owned building understands and agrees that such equipment and annunciators are located at the city owned building completely and exclusively at such person's risk. Further, the city is not responsible for any telephone or other connecting lines to or from such equipment.
(Code 1989, § 14-254; Ord. No. 11082, § 14, 5-3-1993)

Secs. 12-318—12-339. Reserved.

ARTICLE VIII. ADULT ENTERTAINMENT BUSINESSES

Sec. 12-340. 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:

Adult entertainment business means any enterprise to which the public, patrons or members are invited or admitted, and where providing adult entertainment, as defined herein, is a portion of its business.

Adult motel means an enterprise where a regular and substantial business purpose is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motion pictures, videocassettes, DVDs, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and/or rents room accommodations for less than six hours at a time.

Adult motion picture theater means an establishment containing a room with seats facing a screen or projection area, where a regular and substantial business purpose is the exhibition to customers of films, videotapes, DVDs, or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Bathhouse means an enterprise where a regular and substantial business purpose is offering baths with other persons present who are nude or displaying specified anatomical areas.

Body painting studio means an establishment where a regular and substantial business purpose is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customer's view specified anatomical areas.

Adult entertainment means any live exhibition, performance, display or dance of any type, conducted in an adult entertainment business,

including, but not limited to, posing or serving food or beverages or soliciting for the sale of food, beverages or entertainment or pantomiming or modeling or removal of clothing on an adult entertainment business premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons or members, and such exhibition, performance, display or dance is characterized by emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons or members.

Employee means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult entertainment business.

Entertainer means any person who provides adult entertainment within an adult entertainment business as defined in this section, whether or not a fee is charged or accepted for entertainment.

Manager means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of an activity at an adult entertainment business.

Operator means any person operating, conducting or maintaining an adult entertainment business.

Patron means any individual who may be described as, but not limited to, the following: a customer, client, guest, member, observer or private club member, while on the premises of an adult entertainment business.

Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

Premises means any place of business of an adult entertainment business, including the entire lot and building occupied by the adult entertainment business, any tent, awning, mobile home, trailer, recreational vehicle, or other temporary structure or mobile facility occupied by the adult entertainment business, and any other property owned, leased or controlled by the adult entertainment business, including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.

Public place means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

Server means any person who serves food or drink at an adult entertainment business.

Sex offender means any individual who has been sentenced for committing a sexual offense, has a past conviction for an offense involving sexually deviant behavior, has displayed sexually deviant behavior in the commission of any offense, or has admitted to committing sexually deviant behavior.

Specified anatomical area means:

(1) Human male or female genitals or pubic area with less than a fully opaque covering;

(2) Human buttocks including any portion of the anal cleft or cleavage of the male or female buttocks with less than a fully opaque covering;

(3) The female breast below a point immediately above the top of the areola encircling the nipple with less than a fully opaque covering, or any combination of the foregoing; or

(4) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activities means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse

or acts including animals or any latent object in an act of apparent sexual stimulation or gratification.
(Code 1989, § 14-256; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-341. License required for adult entertainment business.

(a) It is unlawful for any person to operate or maintain an adult entertainment business in the city unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the city.

(b) It is unlawful for any entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.

(c) It shall be prima facie evidence that any adult entertainment business that fails to have posted an adult entertainment business license, in the manner required by this section, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, server, employee, manager, operator or owner who performs any business, service or entertainment in an adult entertainment business, in which an adult entertainment business license is not posted, in the manner required by this section, has knowledge that such business was not licensed.
(Code 1989, § 14-257; Ord. No. 11743, § 1, 2-6-2006)

Sec. 12-342. Term of license; license and gross receipts fee; transfer; specific location.

(a) The license year, license fee and gross receipts fee for licenses issued under this section shall be the same as provided in section 12-2.

(b) The application for a license shall be accompanied by payment in full of the license fee by certified or cashier's check, or money order; and no application shall be considered complete until such fee is paid.

(c) Licenses under this article shall be issued for a specific location and shall be nontransferable.
(Code 1989, § 14-258; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011; Ord. No. 12178, § 1, 11-16-2015)

Sec. 12-343. License limited to one identifiable type of adult use.

All adult entertainment licenses shall be issued only for the one adult entertainment business use listed on the application. Any change in the type of adult use shall invalidate the adult entertainment license. More than one adult entertainment business use shall not be allowed at a single location.
(Code 1989, § 14-259; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-344. License application.

(a) *Adult entertainment license.*

(1) All persons desiring to secure a license to operate an adult entertainment business under the provisions of this article shall make a notarized application with the finance department. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the finance department and shall require the following information:

a. The name, resident's address, home telephone number, occupation, date and place of birth and Social Security number of the applicant.

b. The name of the adult entertainment business, a description of the type of business to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment business will be located.

c. The names, resident's addresses, Social Security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the

same information for all corporate officers and directors and stockholders who own ten percent or greater interest in the corporation.

d. If the applicant is a corporation, a current certificate of registration issued by the secretary of state is required.

e. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this article regulating adult entertainment businesses.

(2) An application for an adult entertainment license may be denied if the applicant fails to supply all the information requested on the application or if the applicant gives materially false, fraudulent or untruthful information on the application.

(b) *Manager or owner license requirements.*

(1) All persons desiring to secure a license under the provisions of this article to be a manager or owner shall make a notarized application with the finance department. All applications shall be submitted in the name of the person proposing to be a manager or owner. All applications shall be submitted on a form supplied by the finance department and shall require the following information:

a. The applicant's name, home address, home telephone number, date and place of birth, and Social Security number.

b. Documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

1. A valid motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;

2. A state-issued identification card bearing the applicant's photograph and date of birth;

3. An official and valid passport issued by the United States of America;

4. An immigration card issued by the United States of America;

5. Any other form of picture identification issued by a governmental entity that is deemed reliable by the finance department; or

6. Any other form of identification deemed reliable by the finance department.

(2) Upon receipt of an application in proper form, receipt of the appropriate fee and appropriate proof of age as required by subsection (b)(1)b of this section, the finance department shall issue to the applicant, the manager or owner of the adult entertainment license as applied for.

(c) *Denial of license.* An application for an adult entertainment license may be denied if one or more of the following conditions exist:

(1) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment license for any of the reasons set forth in this Code;

(2) The applicant failed to provide all the information required on the application;

(3) The applicant gave false, fraudulent, or untruthful information on the application;

(4) The applicant is a convicted felon, or convicted of a felony and/or sex offense. (See definition of the term "sex offender" in section 12-340.)

(d) *Facilities necessary.*

(1) No adult entertainment license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the city

inspection department, or its authorized representative, reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:

a. The walls shall be cleaned and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets, provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

b. Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per male/female gender shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the male/female gender accommodated therein. The premises of all adult businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

c. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The city inspection department, or its representative, shall certify that the proposed business establishment complies with all of the requirements of this subsection (1) and shall give or send such certification to the finance department; provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate city official may recommend the issuance of a license contingent upon the compliance with any requirements in this subsection (1).

(2) All adult entertainment businesses must comply with requirements and meet the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city.

(e) *Application processing.* Upon receipt of a complete application for an adult entertainment license, the finance department shall immediately transmit one copy of the application to the police chief for investigation of the application. In addition, the finance department shall transmit a copy of the application to the code enforcement director.

(1) It is the duty of the police chief or designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The police chief shall report the results of the investigation to the finance department not later than ten working days from the date the application is received by the finance department.

(2) It is the duty of the code enforcement director to determine whether the building and/or premises where the adult

entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city. The codes administrator shall report the results of the investigation to the finance department not later than ten working days from the date the application is received by the finance department.

(3) Upon receipt of the reports from the police chief and code enforcement director, the finance department shall submit the application and reports to the city manager for consideration, provided the license application for an adult entertainment license shall be approved or disapproved within 20 days from the date of filing of the completed application with the finance department.

(f) *Signs required.* All adult entertainment businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least one-half inch high, and lowercase letters at least one-fourth inch high, which shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED AND LICENSED BY THE CITY OF KIRKSVILLE

ENTERTAINERS ARE:

Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.

Not permitted to be nude, unclothed, or appear in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals.

Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:

While such entertainer is on the stage, or platform a payment or gratuity may be placed into a box affixed no less than ten (10) feet from the stage or platform.

CUSTOMERS OR PATRONS ARE:

Required to be at least eighteen (18) years of age.

Not permitted to be closer than ten (10) feet from the stage at any time.

Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

(g) *Lighting required.*

(1) The interior premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

(2) The exterior premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one footcandle in all parking areas and on the general grounds of the premises as measured at the ground level, and there shall be illumination to the equivalent of not less than five footcandles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.

(h) *Closed booths or rooms prohibited.*

(1) The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of the premises and of any booths, cubicles, rooms or stalls are visible from a common area of the business. The use of video cameras to meet this requirement is not allowed. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. The manager shall be required to be positioned so as to be able to view the entire interior portion of the premises while on duty.

(2) Only one person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways, there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle, room or stall.

(Code 1989, § 14-260; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-345. Examination of application, issuance of license, disapproval.

(a) If the application for an adult entertainment license is in proper form and accompanied by the appropriate license fee, the city manager shall examine the application and, after such examination, the city manager shall, if the applicant is qualified, approve a license as provided for by law.

(b) The record of the city manager shall show the action taken on the application, and if the license is granted, the city manager shall direct the finance department to issue the proper license. The license shall state that it is not transferable to other persons or entities and the license period for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed.

(c) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last-known address, and the notification shall state the basis for such disapproval. An applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

(Code 1989, § 14-261; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-346. Distance and location restrictions.

No person may operate an adult entertainment business if one or more of the following conditions exist:

(1) The adult entertainment business premises is located within 200 feet of any residence, school, church, public park, licensed child care center or licensed child care home. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the adult entertainment business to the nearest point on the property line of such residence, school, church, public park, licensed day care center, or licensed child care home.

(2) The adult entertainment business premises is located within 200 feet of any other adult entertainment business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the adult entertainment business to the nearest point on the property line of such other adult entertainment business.

(3) The business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the city.

(4) That the adult entertainment business not be located in a zoning classification other than M-1, Light Industrial District,

west of Industrial Road, and north of Missouri Highway 6, and those lands zoned M-2, Heavy Industrial District north of Missouri Highway 6 west.

(Code 1989, § 14-262; Ord. No. 11743, § 1, 2-6-2006)

Sec. 12-347. Standards of conduct.

The following standards of conduct shall be adhered to by all adult entertainment businesses, their employees and all managers, servers and entertainers and patrons of adult entertainment businesses, while on or about the premises of the business, whether licensed or not:

(1) *Stage or platform.* The conduct of adult entertainment shall be confined to a stage or platform, which stage or platform shall be elevated at least two feet above the elevation of the main floor of the structure and any person providing adult entertainment shall maintain a distance of not less than ten feet from all patrons of the establishment; further, no patron shall be permitted to approach to a distance less than ten feet from the stage upon which the adult entertainment is being presented.

(2) *Age restriction.* Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.

(3) *Exterior observation and display.* No adult entertainment business will be conducted in any manner that permits the observation or display of performers, servers, or entertainers engaged in an erotic depiction or dance or any material or persons, caricatures, animals, or any portion thereof depicting, describing or relating to the terms "specified sexual activities" or "specified anatomical areas," as defined herein, or any books, cards, magazines, periodicals or other printed matter, photographs, slides, films, motion pictures, DVDs, or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas from any exterior sources, including, but not limited to, by display, decoration, sign, show window or their opening.

(4) *Nudity prohibited.* No person in an adult entertainment business, other than a patron in a licensed bathhouse, shall appear nude, unclothed, or in any fashion that exposes to view any specified anatomical areas.

(5) *Certain acts prohibited.*

a. No manager, employee, server, entertainer or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical areas, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities, as defined herein, or participate in any act of prostitution.

b. No manager, employee, server, entertainer or patron of an adult entertainment business shall knowingly or repeatedly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such manager, employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

c. No manager, employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.

d. No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any

act prohibited by this article, and no entertainer shall receive any payment or gratuity from any customer for any adult entertainment, except a performer or patron may place such payment or gratuity into a box affixed no less than ten feet from the stage or platform.

e. No owner, operator, manager or other person in charge of the adult entertainment business premises shall:

1. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises (unless otherwise permitted pursuant to chapter 6).
2. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises.
3. Knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises.
4. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises.
5. Knowingly allow or permit a violation of this article or any other city ordinance provision or state law.

(6) *Hours of operation.* No adult entertainment business may be open or in use between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and Saturdays, and between the hours of 1:30 a.m. on Sunday and 6:00 a.m. on Monday.

(Code 1989, § 14-263; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-348. License; posting or display.

Every person, corporation, partnership, or association licensed under this article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment business premises.

(Code 1989, § 14-264; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-349. Manager on premises.

(a) A manager shall be on duty at any adult entertainment business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

(b) It shall be the responsibility of the manager to ensure persons under the age of 18 years do not enter upon the premises.

(Code 1989, § 14-265; Ord. No. 11743, § 1, 2-6-2006)

Sec. 12-350. Inspector and inspections.

(a) All adult entertainment businesses shall permit city officials acting in their official capacity to inspect the premises when requested, or for cause, to ensure the business is complying with all applicable regulations and laws.

(b) The adult entertainment business premises must comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the city.

(Code 1989, § 14-266; Ord. No. 11743, § 1, 2-6-2006)

Sec. 12-351. Renewal.

(a) A license may be renewed by making application to the finance department on application forms provided for that purpose. Licenses shall expire on the last day of February of each calendar year, and renewal applications for such licenses shall be submitted prior to February 1 to ensure processing by March 1.

(b) Upon timely application and review as provided for a new license, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided in this article.

(c) If the application for renewal of a license is not made during the time provided in subsection (a) of this section, the expiration of such license shall not be affected, and a new application shall be required.
(Code 1989, § 14-267; Ord. No. 11743, § 1, 2-6-2006; Ord. No. 11950, § 1, 2-7-2011)

Sec. 12-352. Conflicting regulations.

The provisions of this article shall apply to all matters affecting or relating to adult entertainment businesses and premises, as set forth herein. Where, in a specific case, different sections of this Code specify different requirements, the most restrictive shall govern.
(Code 1989, § 14-269; Ord. No. 11743, § 1, 2-6-2006)

Chapter 13

RESERVED

Chapter 14

CEMETERIES

Sec. 14-1. Forest-Llewellyn Cemetery.

Forest-Llewellyn Cemetery lies between Osteopathy and Centennial Streets, Missouri and Washington Streets, and is owned and maintained by the city. All rules and regulations of this cemetery are contained in a council policy to allow for changes, as needed, and as approved by the city council.

(Code 1989, § 7-1; Ord. No. 12027, § 1, 11-5-2012; Ord. No. 12071, § 1, 8-5-2013; Ord. No. 12150, § 1, 3-16-2015; Ord. No. 12174, § 1, 10-5-2015)

Chapter 15

RESERVED

Chapter 16

EMERGENCY MANAGEMENT AND SERVICES

Sec. 16-1. City emergency management agency created.

There is hereby created within the city an emergency management organization to be known as the city emergency management agency, which is responsible for the preparation and implementation of emergency functions required to prevent injury and minimize and repair damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, and emergency activities (excluding functions for which military forces are primarily responsible) in accordance with RSMo ch. 44, and supplements thereto, and the state emergency operations plan adopted thereunder.
(Code 1974, § 6-1; Code 1989, § 8-1; Ord. No. 10770, § 1, 4-20-1987)

Sec. 16-2. Organization.

This agency shall consist of the fire chief as the appointed emergency management director and others as outlined by the city emergency management plan to conform to the state organization and procedures for the conduct of emergency operations as outlined in the state emergency operations plan.
(Code 1974, § 6-2; Code 1989, § 8-2; Ord. No. 10770, § 1, 4-20-1987; Ord. No. 12087, § 1, 11-4-2013)

Sec. 16-3. Functions.

The organization shall perform emergency management functions within the city, and may conduct these functions outside the city as directed by the governor during the time of emergency pursuant to the provisions of RSMo ch. 44, and supplements thereto.
(Code 1974, § 6-3; Code 1989, § 8-3; Ord. No. 10770, § 1, 4-20-1987)

Sec. 16-4. Fire chief or designee.

(a) The fire chief or designee shall have direct responsibility for the organization, administration and operations of local emergency management operations.

(b) The fire chief or designee shall be responsible for maintaining records and accounting for the use and disposal of all items of equipment placed under the jurisdiction of the emergency management agency.
(Code 1974, § 6-4; Code 1989, § 8-4; Ord. No. 10770, § 1, 4-20-1987; Ord. No. 12087, § 1, 11-4-2013)

Sec. 16-5. Powers.

The city council and the director, in accordance with RSMo ch. 44, may:

(1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for civil defense purposes; provide for health and safety of persons, including emergency assistance to victims of any enemy attack; the safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the federal and state disaster and emergency planning;

(2) Appoint, provide, or remove rescue teams, auxiliary fire and police personnel and other emergency operations teams, units or personnel who may serve without compensation;

(3) In the event of enemy attack, or other large scale emergency involving the likelihood of urgent life-safety risk (pending legal review), waive the provisions of statutes requiring advertisements for bids for the performance of public work or entering into contracts;

(4) Enter into mutual aid arrangements or agreements with other public and private agencies within or without the state for reciprocal emergency aid;

(5) With the consent of the governor, accept services, materials, equipment, supplies or funds granted or loaned by the federal government for disaster planning and operations purposes.

(Code 1974, § 6-5; Code 1989, § 8-5; Ord. No. 10770, § 1, 4-20-1987)

Sec. 16-6. Oath.

No person shall be employed or associated in any capacity in any organization established under this chapter who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization shall, before entering upon duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

> I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Missouri, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such a time as I am a member of the Kirksville Emergency Management Agency, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence.

(Code 1974, § 6-6; Code 1989, § 8-6; Ord. No. 10770, § 1, 4-20-1987)

Chapter 17

RESERVED

Chapter 18

FIRE PREVENTION AND PROTECTION

Article I. In General

Article II. Fireworks

Article III. Open Burning

ARTICLE I. IN GENERAL

Sec. 18-1. False alarms of fire.

No person within the city shall willfully and maliciously give or make or turn in a false alarm of fire.
(Code 1974, § 9-8; Code 1989, § 9-7)

Sec. 18-2. Opening fire hydrants.

Except as otherwise permitted by this Code, no person shall open any of the city's fire hydrants for any purpose.
(Code 1974, § 9-9; Code 1989, § 9-8)

Sec. 18-3. Walking, driving upon, etc., fire hose.

It is hereby declared to be unlawful for any person to stand or walk upon, or to lead, ride or drive any animal along or across, or to drive, pull or push any vehicle of any kind or character whatsoever along or across any fire hose belonging to the city.
(Code 1974, § 9-10; Code 1989, § 9-9)

Secs. 18-4—18-24. Reserved.

ARTICLE II. FIREWORKS

Sec. 18-25. 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:

Fireworks means any combustible or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of the terms "consumer (explosive's 1.4G)," "theatrical and novelty (explosive's 1.4S)," or "display (explosive's 1.3G)" fireworks as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, 49 CFR 171.180.

(1) *Exception No. 1.* Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to said regulations.

(2) *Exception No. 2.* Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(Code 1974, § 9-11; Code 1989, § 9-26; Ord. No. 11246, 5-20-1996; Ord. No. 11622, § 1, 6-3-2003)

Sec. 18-26. When sales permitted as retail; method of exposing for sale.

No person shall offer fireworks for sale to individuals at retail except during the following periods: June 20 to July 5, inclusive. All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where the fireworks are in the original package, and all fireworks kept for sale on front counters shall remain in the original packages, except where an attendant is on duty at all times at counters where the fireworks are on display. Fireworks in open stock may be kept in showcases or counters out of the reach of the public without an attendant being on duty. Signs reading "Fireworks for sale—no smoking allowed," shall be displayed in the section of the store set aside for the sale of fireworks.
(Code 1974, § 9-12; Code 1989, § 9-27; Ord. No. 11426, § 1, 12-20-1999; Ord. No. 11622, § 1, 6-3-2003)

Sec. 18-27. Sale, use and possession of certain classes.

The sale, use and possession of the following classes of fireworks is hereby approved within the city: All fireworks that are now or may hereafter be classified as "consumer (explosive's 1.4G)," may be sold in the city. No retailer, dealer, or any other person shall sell, offer for sale, store, display or have in their possession any fireworks that have not been approved and in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco, and Firearms (27 CFR 181) and the U.S. Department of Transportation listed as "consumer (explosive's 1.4G)." No jobber, wholesaler, manufacturer or any other person shall sell to retail dealers or to any other person in the city for the purpose of resale or use in the

city, any fireworks which are not in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco, and Firearms (27 CFR 181) and the U.S. Department of Transportation listed as "consumer (explosive's 1.4G)." This section does not prohibit jobbers, wholesalers or manufacturers from storing, selling, shipping or otherwise transporting fireworks to dealers outside of the state. Nor does it prohibit a distributor as licensed by the state fire marshal's office to possess, transport, resell "display (explosive's 1.3G)," or conduct a special fireworks display as provided for in section 18-28.
(Code 1974, § 9-13; Code 1989, § 9-28; Ord. No. 11246, 5-20-1996; Ord. No. 11622, § 1, 6-3-2003)

Sec. 18-28. Discharging.

It shall be unlawful for any person to discharge any form of fireworks, within the city, except as provided as follows:

(1) Discharging of consumer (explosive's 1.4G) fireworks is allowed by persons on their premises as follows: between the hours of 9:00 a.m. and 11:00 p.m. on June 30 through July 5; provided, however, if a complaint is received and verified by the police department for disturbance of the peace of the neighbors, discharging shall immediately cease.

(2) Public displays utilizing consumer (explosive's 1.4G) fireworks at times and dates other than listed in subsection (1) of this section are permissible for organizations, firms, corporations, or the city upon special event application and approval from the fire department.

(3) A special event application/permit will be required for such requests. This approval will also require a special permit from the fire department for public displays utilizing display (explosive's 1.3G) special fireworks by organizations, firms, corporations, or the city and fireworks shall be located, discharged, or fired so as in the opinion of the fire chief, after proper inspection, to not be hazardous to any person or property. Prior to a permit being issued, proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person or any agent or employee thereof shall be submitted. The permittee shall be required to provide evidence that the permittee has a current license to discharge special fireworks from the state in accordance with RSMo 320.126. If a permittee is not licensed by the state, the permittee shall be required to provide proof of experience and competence in the discharge of display (explosive's 1.3G) special fireworks. The fire chief shall make this determination based on permits issued by other jurisdictions, background information of the applicants, etc. After a permit has been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. A copy of all permits issued for special fireworks displays shall be forwarded to the state fire marshal's office. No permit granted shall be transferrable.

(Code 1974, § 9-14; Code 1989, § 9-29; Ord. No. 11246, 5-20-1996; Ord. No. 11426, § 1, 12-20-1999; Ord. No. 11622, § 1, 6-3-2003)

Sec. 18-29. Restrictions on throwing.

It is unlawful for any person to throw fireworks out of cars, under cars, at people or on any public street or other public place within the city.
(Code 1974, § 9-15; Code 1989, § 9-30)

Sec. 18-30. Storage generally.

Fireworks to be sold at wholesale shall be stored in a room set aside for the storage of fireworks only. Over the entrance to this room shall be posted a sign reading, "Fireworks—no smoking—keep open flames away."
(Code 1974, § 9-16; Code 1989, § 9-31)

Sec. 18-31. Sales where certain substances kept; fire extinguishing equipment at places of sale.

(a) Fireworks shall not be sold or kept for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable

substances are kept, unless such substances are kept in a separate and distinct section or department of the store and in proper containers.

(b) Fire extinguishers must be provided in accordance with Missouri Revised Statutes; 11 CSR 40-3.010.7.A.1 or 11 CSR 40-3.010.7.A.2.
(Code 1974, § 9-17; Code 1989, § 9-32)

Sec. 18-32. Storage, sale, etc., near gasoline pumps, etc.

Fireworks shall not be stored, kept, sold or discharged within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.
(Code 1974, § 9-18; Code 1989, § 9-33)

Secs. 18-33—18-52. Reserved.

ARTICLE III. OPEN BURNING

Sec. 18-53. Open burning, no permit.

Open burning shall be allowed without prior notification to the fire department only for recreational fires, highway safety flares, smudge pots, and similar occupational needs.
(Code 1989, § 9-45; Ord. No. 11195, 7-17-1995)

Sec. 18-54. Recreational fires.

Recreational fires shall be utilized for the cooking of food for human consumption or camp fires. They shall be no larger than two feet by two feet by two feet utilizing seasoned dry fire wood and ignited with a small amount of paper. Recreational fires shall be constantly attended until the fire is extinguished. Fire extinguishing equipment shall be available for immediate use.
(Code 1989, § 9-46; Ord. No. 11195, 7-17-1995)

Sec. 18-55. Open burning, permit required.

Open burning shall be allowed after obtaining a permit from the fire department for leaves, tree limbs, brush, garden waste, commercial land clearing, recognized silvicultural or wildlife management practices, prevention, or control of disease or pests, heating to warm outside workers, and a bonfire. All permits shall be issued to the owner of the land upon which the fire is being kindled. Fires in residential areas shall be no larger than the size limitations allowed in section 18-54.
(Code 1989, § 9-47; Ord. No. 11195, 7-17-1995; Ord. No. 12248, § 1, 6-5-2017)

Sec. 18-56. Bonfires.

Upon receipt of a permit from the fire department, a bonfire shall be no more than six feet by six feet by six feet in dimension and shall burn not longer than four hours. The size and duration of the bonfire shall be increased when it is determined by the fire department that fire safety requirements of the situation and the desirable duration of burn warrant the increase. Fuel for bonfires shall consist only of seasoned dry firewood and be ignited with a small quantity of paper. The fire shall not be used for waste disposal purposes. The bonfire shall be constantly attended until the fire is extinguished. Fire extinguishing equipment shall be available for immediate use.
(Code 1989, § 9-48; Ord. No. 11195, 7-17-1995)

Sec. 18-57. Location.

Unless otherwise stipulated, the location for open burning shall be not less than 50 feet from any structure and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Fires in containers approved by the fire chief or designee shall be permitted to be not less than 15 feet from any structures. Size, duration and location of open burning of leaves, limbs, brush, garden waste, etc., other than land clearing, will be determined and approved on a case-by-case basis.
(Code 1989, § 9-49; Ord. No. 11195, 7-17-1995; Ord. No. 12248, § 1, 6-5-2017)

Sec. 18-58. Land clearing, commercial/housing development.

Before a permit to clear land can be issued, the fire chief or designee must complete a site visit, and prepare a burn plan stipulating acceptable burn parameters. The burn parameters will

be made part of the permit. Upon receipt of a permit from the fire department, a land clearing fire may be utilized for the purpose of development, agricultural use or other approved use. The burn location shall not be less than 200 yards from any inhabited dwelling and be contained within a cleared area of no less than a 100-foot radius. The burn shall be constantly attended. Burn pile fire materials shall be no larger than 20 feet by 20 feet by six feet in height and will be contained within a cleared area of no less than a 100-foot radius. No stumps or limbs over 14 inches in diameter will be included in the burn pile. Applications for land clearing fires covered by this article shall be submitted at least 72 hours prior to the set of the fire. Receipt of a permit for land clearing from the fire department will not relieve the permittee from the obligation to obtain approval from the state department of natural resources, where required.
(Code 1989, § 9-50; Ord. No. 11195, 7-17-1995; Ord. No. 12248, § 1, 6-5-2017)

Sec. 18-59. Permit request information.

Applications for open burning shall contain such information as required by the fire department, including, at a minimum, information regarding the purpose of the proposed burning, the nature and quantities of material to be burned, the date when such burning will take place, and the location of the burn site.
(Code 1989, § 9-51; Ord. No. 11195, 7-17-1995)

Sec. 18-60. Prohibited when.

Fires are prohibited on any public street, sidewalk, or curb. Fires shall be prohibited which will be offensive and objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous. The fire department official may order the extinguishment, by the permit holder, property owner, or the fire department, of any open burning which creates or adds to a hazardous or objectionable situation, regardless of whether the fire requires a permit.
(Code 1989, § 9-52; Ord. No. 11195, 7-17-1995)

Sec. 18-61. Burning restrictions.

The fire chief may prohibit any and all open burning where atmospheric conditions or local circumstances make such fires hazardous.
(Code 1989, § 9-53; Ord. No. 12248, § 1, 6-5-2017)

Sec. 18-62. Penalty.

Any person violating any of the provisions of this article shall, upon conviction, be punished as provided in section 1-8, and in addition to such fine, the court may temporarily suspend the person from receiving a permit for a period not to exceed 90 days.
(Code 1989, § 9-54; Ord. No. 11195, 7-17-1995; Ord. No. 12248, § 1, 6-5-2017)

Chapter 19

HOUSING

Article I. In General

Article II. Community Development Block Grant Program

Article III. Manufactured Homes

Division 1. Generally

Division 2. Permits and Certificates

Division 3. Park Standards and Specifications

Division 4. Administration and Enforcement

ARTICLE I. IN GENERAL

Secs. 19-1—19-20. Reserved.

ARTICLE II. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Sec. 19-21. Affordable housing board.

(a) *Established.* The city council has established an affordable housing board having the functions, duties, and authority prescribed herein.

(b) *Membership and vacancies.* The board shall consist of five members to be appointed by the city council and to serve without compensation. All members shall be residents of the city. The terms of the members of the board shall be three years, with the initial members of the board serving through the duration of the city's 1996 State Community Development Block Grant (CDBG), No. 96-ND-10. The successors of the members so appointed shall each be appointed annually in May, for a term of three years. All vacancies occurring in the affordable housing board shall be filled by appointment of the city council for the remaining portion of the term of the position so vacated.

(c) *Officers.* The board shall elect a chairperson and vice-chairperson.

(d) *Meetings and records.* The board shall determine meeting times and places. Special meetings may be held on the call of the chairperson. A majority of the board shall constitute a quorum for the transaction of business. The board shall cause a proper record to be kept of its proceedings.

(e) *Functions, duties, and authority.* The board shall have the following functions, duties, and authority:

(1) Serve as a citizens advisory group for affordable housing related to community development applications to the state CDBG program;

(2) Receive and process applications for housing rehabilitation grants;

(3) Examine bids and contracts for housing rehabilitation and make recommendations to the city council;

(4) Approve final inspections of housing rehabilitation work and recommend payments to be made to the contractor by the city;

(5) Recommend policy and other changes in program guidelines to the city council;

(6) Authorize change orders to work in progress, which authorization shall be subject to appeal in the manner providing in subsection (f) of this section;

(7) Have decision-making authority concerning repair of existing housing; provided however, that the owner of any house who disputes any such decision made by the board may appeal such decision to the city council in the manner providing in subsection (f) of this section; and

(8) Recommend affordable housing efforts to the city council.

(f) Appeals under this section shall be conducted in accordance with the following:

(1) The notice of appeal must be in writing and filed with the city clerk within 15 days after the board's decision is made.

(2) Upon receipt of the notice of appeal, the city council shall set a time and place for a hearing on the appeal and give the owner written notice.

(3) At hearing, the owners shall be given an opportunity to be heard and show cause why the board's decision should be modified or overruled.

(4) Upon hearing the evidence and testimony presented at such hearing, the city council shall issue its order either sustaining, modifying, or overruling the board's decision.

(5) The city council's order shall be reduced to writing and mailed to the owner at the owner's last known address within 15 days after the date of the hearing.

(Code 1974, § 13-16; Ord. No. 11416, § 1, 11-1-1999; Ord. No. 11565, § 1, 4-15-2002)

Sec. 19-22. Housing rehabilitation program.

(a) *Purpose and intent.* The purpose of the rehabilitation program is to correct code violations, overcrowded or unsanitary conditions and to improve the housing and living environment for persons of low to moderate income levels living in the city. The program is devised to preserve and improve the city's present housing. Under the program low to moderate income families will receive rehabilitation work.

(b) *Annual program review.* An annual review of the program shall be conducted to determine if changes or refinements are needed.

(c) *Target area.* The program will encompass the target area as outlined in the Community Development Block Grant (CDBG) Award.

(d) *City construction regulations applicable.* City codes will be followed in all work performed and in the installation of all materials. All work will be done by qualified and licensed contractors except as otherwise provided for approved, owner performed work.

(e) *Grants limited to one per property.* Grants are limited to one per property.

(f) *Contractor bidding.* Competitive bids shall be let on each project and the lowest responsible contractor shall be selected, subject to approval of the affordable housing board. Minority contractors may receive negotiated bids, if approved by the affordable housing board, in accordance with CDBG regulations.

(g) *Inspections.* Inspections of the work shall be made to insure that it fulfills the terms of the grant and contract agreement before payment is submitted.

(h) *Eligibility limited.* City council members, affordable housing board members, city employees and city officers shall not be eligible for grant assistance, contracts or subcontracts for any work, or may not have any personal interest, direct or indirect, in any contract under this project.

(i) *Application procedure.* The procedure for participating in the housing rehabilitation program shall be as follows:

(1) Interested persons must make application before any action can be taken.

(2) Applicants who qualify will be taken on a first-come, first-served basis. Emergency situations will receive priority. All decisions pertaining to emergencies and program qualification will be made by the affordable housing board.

(3) A complete house inspection will be made by the program housing inspector. A deficiency list will be prepared and submitted to the property owner. A work write-up will be prepared, as well as a cost estimate.

(4) All items on the work write-up, as well as other pertinent information, will be discussed with the owner, affordable housing board, and contractor before a contract is signed.

(Code 1974, § 13-17; Ord. No. 11416, § 3, 11-1-1999; Ord. No. 11565, § 2, 4-15-2002)

Secs. 19-23—19-42. Reserved.

ARTICLE III. MANUFACTURED HOMES

DIVISION 1. GENERALLY

Sec. 19-43. Definitions.

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

Add-ons means factory-built room enclosure erected, constructed or attached to a manufactured home for residential use by the occupants of a manufactured home.

Board means the board of adjustment.

Certificate of occupancy means a certificate indicating completion of the work to include those requirements contained within this chapter necessary for human occupancy. Such a certificate shall be required to place a manufactured home within a park.

Code enforcement director means the city's code enforcement department and fire department inspection division.

Common areas means the open spaces on the premises or adjoining property under the control of owners or operators of such premises, and visible without entering the interior of a manufactured home.

Cross connection means a physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems.

Detached accessory building means an incidental freestanding building located on the same lot which it serves and is used solely for storage of personal equipment and possessions of the manufactured home occupants.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Manufactured home means a residential building unit constructed or assembled in a factory that is certified under federal housing and urban development regulations. When used in this chapter, the term includes "mobile homes" as herein defined.

Manufactured home lot means a parcel of land within a manufactured home park used for the placement of a single manufactured home and the exclusive use of its occupants.

Manufactured home park means an area, lot, parcel or tract held in common ownership, and on which individual portions of said area, lot, parcel or tract are leased for the placement of manufactured homes as a primary residence.

Mobile home means a residential home constructed or assembled in a factory which is not certified pursuant to federal housing and urban development regulations or the building codes adopted by the city, and which conforms to the American National Standard Institute (ANSI) standards for mobile homes.

Modular home means a residential building constructed or assembled in a factory and conforming to the RSMo ch. 700 and the city's building and construction regulations.

Park owner means the owner of record of the lands contained within the boundaries of the manufactured home park or the assignee or manager so designated by the owner of record of the manufactured home park.

Placement permit means a written permit issued by the city, permitting the placement of a manufactured home upon a manufactured home lot under the provisions of this article and regulations issued hereunder.

Rubbish and trash means combustible and noncombustible refuse and waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, leather, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, furniture, appliances and dust and other similar materials.

Sewer connection means the connection consisting of all pipes, fittings, and similar materials from the drain outlet of the manufactured home to the inlet of the corresponding sewer riser pipe.

Sewer riser pipe means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at a designated point at each manufactured home lot.

Street means a thoroughfare, either private or public, reserved for vehicles and providing access to adjoining properties and lots.

Tie down system means a method of anchoring and securing a manufactured home as stipulated by the manufacturer or the state public service commission.

Unfit for human occupancy is a manufactured mobile home condition arising when the code enforcement director determines the home to be unsafe, unlawful because of the degree to which

it is in disrepair or lacks maintenance, unsanitary, vermin or rat-infested, containing filth and contamination, or lacking ventilation, illumination, sanitary or heating facilities or other essential equipment required by this chapter, thereby constitutes a hazard to the occupants or to the public.

Utilities means water and sewer, gas or electrical distribution system which are available for connection to manufactured homes in a manufactured home park.
(Code 1974, § 13-32; Ord. No. 11372, 3-1-1999)

Sec. 19-44. Conflicts of law.

(a) If a provision of this chapter is found to be in conflict with a provision of any other chapter of this Code or other ordinance, code or regulation of the city, the provisions which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(b) If any provision of this chapter is found to be in conflict with a provision of state law or a rule, regulation, notice or order promulgated or given pursuant to authority of state law, the more stringent provision shall prevail, except as may be provided otherwise by state law or by rule, regulation, notice or order promulgated or given pursuant thereto.

(c) Manufactured homes existing within a manufactured home park prior to the adoption of the ordinance from which this article is derived, which possess legal nonconforming uses, shall continue as a legal nonconforming use, except with regard to conditions relating to health and safety which should not be appropriate for classification as a legal nonconforming use.
(Code 1974, § 13-33; Ord. No. 11372, 3-1-1999)

Secs. 19-45—19-64. Reserved.

DIVISION 2. PERMITS AND CERTIFICATES

Sec. 19-65. Placement permit required.

It is unlawful for any person, including manufacturers or dealers or transporters, to place a manufactured home in a manufactured home park unless the person holds a valid placement permit issued by the city. The owner of the manufactured home and the owner of the manufactured home park shall apply for a placement permit on forms pre-signed by the park owner. Placement permits shall specify the park and lot proposed for placement.
(Code 1974, § 13-41; Ord. No. 11372, 3-1-1999)

Sec. 19-66. Minimum requirements for occupancy.

Any manufactured home placed within a manufactured home park pursuant to a placement permit shall be made ready for occupancy within 30 days following such placement unless otherwise extended by the code enforcement director in writing. The minimum requirements for occupancy of a manufactured home within the city are as follows:

(1) The manufactured home must be securely and appropriately anchored in accordance with the manufacturer's recommendations and as approved by the state public service commission.

(2) The manufactured home must be completely underpinned and skirted utilizing approved materials (excluding lumber and wood) except as utilized for non-degradable framing.

(3) The manufactured home must be free from loose siding, broken windows or other extraneous building material.

(4) All utilities must be appropriately connected and in working order.

(5) A minimum of two egress doors located remotely from each other must be accessible and functional.

(6) An address number (minimum of four inches in height) corresponding with the assigned lot number must be placed appropriately on the manufactured home facing the street and visible from the street.

(Code 1974, § 13-42; Ord. No. 11372, 3-1-1999; Ord. No. 12149, § 3, 3-16-2015)

Sec. 19-67. Mini-houses.

The placement and relocation of mini-houses in the city requires issuance of a building permit allowing for the inspection of the home and the issuance of a final occupancy permit. Placement within a mobile home park shall follow the requirements of this article together with the following:

(1) Habitable space must not be less than 400 square feet.

(2) There must be no less than 14 feet fire separation between adjacent housing structures.

(3) Each structure must have two off-street hard-surfaced parking spaces designated for that lot of the mobile home park.

(4) Footings, foundation, piers, or concrete slab required.

(5) All structures must have a peaked roof design with gable ends.

(6) Requirements for securing, skirting, utilities and address posting shall be the same as provided in this article for mobile homes.

(Code 1974, § 13-42.5; Ord. No. 11474, § 4, 11-6-2000; Ord. No. 11619, § 9, 5-19-2003; Ord. No. 11785, § 1, 1-17-2007; Ord. No. 11786, § 2, 2-7-2007; Ord. No. 11891, 9-21-2009; Ord. No. 11894, § 1, 10-19-2009; Ord. No. 12126, § 1, 9-15-2014; Ord. No. 12164, § 1, 8-3-2015; Ord. No. 12190, § 1, 1-4-2016)

Sec. 19-68. Final inspection.

When a manufactured home has been readied for occupancy, a final inspection shall be made to determine compliance with the provisions of this article.
(Code 1974, § 13-43; Ord. No. 11372, 3-1-1999)

Sec. 19-69. Certificate of occupancy.

Upon successful completion of the final inspection, the city shall issue a certificate of occupancy to the owner, allowing occupancy of the manufactured home. Certificates of occupancy shall not be issued, nor utility services be transferred in manufactured home parks that are in non-compliance with this article. Non-compliance occurs when there is an imminent threat to human health or safety (e.g., sewerage discharge) or, for a code violation that does not constitute an imminent threat to human life and safety, 60 days have elapsed from the date a violation notice is issued by the city, unless otherwise waived by the city.
(Code 1974, § 13-44; Ord. No. 11372, 3-1-1999)

Sec. 19-70. Right of hearing.

Any person whose application for a placement permit or certificate of occupancy has been denied may request and shall be granted a hearing on the matter before the board of adjustment under the procedure provided in section 25-15.
(Code 1974, § 13-45; Ord. No. 11372, 3-1-1999)

Secs. 19-71—19-90. Reserved.

DIVISION 3. PARK STANDARDS AND SPECIFICATIONS

Sec. 19-91. Soil and ground cover requirements.

(a) All sidewalks, walkways, driveways, streets, pads, parking spaces and other common areas shall be kept in a proper state of repair and maintained free from hazardous conditions. Such areas shall be maintained in good repair using the same or greater quality composition of surface type (concrete, asphalt, etc.) as existed as of the effective date of the ordinance from which this article derives.

(b) All premises, including manufactured home lots, shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water with the exception of water retention areas and reservoirs approved by the city.
(Code 1974, § 13-51; Ord. No. 11372, 3-1-1999)

Sec. 19-92. Space between homes and other structures.

Except as otherwise required or permitted by this Code, a manufactured home, excluding the tongue, shall not be located closer than ten feet

side to side, eight feet end to side or six feet end to end horizontally from any other manufactured home or structure, except that add-ons and permanent attachments to the manufactured home shall be no closer than eight feet side to side, eight feet end to side or six feet end to end horizontally from any other home or structure.
(Code 1974, § 13-52; Ord. No. 11372, 3-1-1999)

Sec. 19-93. Park owner has ultimate responsibility for violations.

On all matters related to environmental, open space access, health, safety, and related requirements, the park owner will ultimately be responsible for code violations which cannot be traced to an individual resident or tenant.
(Code 1974, § 13-53; Ord. No. 11372, 3-1-1999)

Sec. 19-94. Water distribution system.

An accessible, adequate, safe and potable supply of water shall be separately provided to each manufactured home, connected by adequate pipes to all manufactured homes, buildings and other facilities requiring water and shall provide the minimum amount of pressure required as contained within the property maintenance and plumbing codes as adopted by the city. Cross connection to any other water supply is prohibited.
(Code 1974, § 13-54; Ord. No. 11372, 3-1-1999)

Sec. 19-95. Individual water connections.

Individual water riser pipes shall be located within the confined area of the manufactured home. A shutoff valve below the frost line shall be provided near the water riser pipe on each lot.
(Code 1974, § 13-55; Ord. No. 11372, 3-1-1999)

Sec. 19-96. Waste water system required.

An adequate and safe sewerage system shall be provided to all manufactured homes for conveying and disposing of all sewage, individual sewer connections shall be provided for each lot. In accordance with state law and other sewer regulations of the city.
(Code 1974, § 13-56; Ord. No. 11372, 3-1-1999)

Secs. 19-97—19-116. Reserved.

DIVISION 4. ADMINISTRATION AND ENFORCEMENT

Sec. 19-117. Violations.

It is unlawful for any person to maintain or occupy, or allow another person to maintain or occupy, a manufactured home contrary to or in conflict with or in violation of any of the provisions of this article. In addition, it is unlawful for any person to fail to obey a lawful order of the code enforcement director, or to remove or deface a placard or notice posted under the provisions of this article.
(Code 1974, § 13-61; Ord. No. 11372, 3-1-1999)

Sec. 19-118. Notice to owner or person responsible.

If the code enforcement director determines that there has been a violation of this article, notice shall be given to the owner of the manufactured home, the occupant or other person responsible therefor and the manufactured home park owner.
(Code 1974, § 13-62; Ord. No. 11372, 3-1-1999)

Sec. 19-119. Form of notice.

The notice shall be in writing and shall include a:

(1) Description of the manufactured home for sufficient identification;

(2) Statement of the reason or reasons why the notice is being issued;

(3) Correction order describing the repairs and improvements required allowing a reasonable time for such remedial action to be commenced and completed; and

(4) Statement of the rights of the violator to a hearing before the board of adjustment and the manner in which to obtain the same.

(Code 1974, § 13-63; Ord. No. 11372, 3-1-1999)

Sec. 19-120. Service of notice.

The notice shall be deemed to have been properly served upon such owner, occupant or other responsible person when a copy thereof has

been sent by registered mail to the owner's last known address, or when served with such notice by any method authorized or required by the laws of this state, and a copy shall be submitted to the manufactured home park owner.
(Code 1974, § 13-64; Ord. No. 11372, 3-1-1999)

Sec. 19-121. Condemnation and vacating.

(a) If the code enforcement director finds that a manufactured home is unfit for human occupancy, the director shall condemn the same and order the manufactured home vacated. A copy of the condemnation order shall be posted on the manufactured home at least ten days before it shall become effective unless the situation is of a character requiring emergency action, in which case the effective date of the order shall be such as the code enforcement director deems reasonable and necessary.

(b) A copy of the condemnation order shall be served upon the owner, occupant or other responsible person as provided for herein, and the manufactured home park owner.

(c) The manufactured home shall not again be occupied until a written statement of approval from the code enforcement director is obtained upon completion of required repairs to abate violations. If repairs are not completed and approval is not obtained from the code enforcement director, it shall be the responsibility of the home owner to remove said unit from the park within 30 days of notification.
(Code 1974, § 13-65; Ord. No. 11372, 3-1-1999)

Sec. 19-122. Placarding.

When a manufactured home has been condemned as provided for herein, the code enforcement director shall post in a conspicuous place a placard bearing the words "Condemned As Unfit For Human Occupancy". The code enforcement director shall remove the condemnation placard whenever the defects upon which the condemnation and placarding action were based have been eliminated.
(Code 1974, § 13-66; Ord. No. 11372, 3-1-1999)

Chapter 20

HUMAN RELATIONS

Article I. In General

Article II. Human Rights Compliance Officer

Article III. Discriminatory Practices

ARTICLE I. IN GENERAL

Sec. 20-1. Administration.

(a) There is hereby created a human rights compliance officer who shall be appointed by the city manager.

(b) Every complaint of a violation of this chapter shall be referred to the human relations compliance officer. The human relations compliance officer shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at the time. If the compliance officer, after investigation, finds there is no merit to the complaint, the same shall be dismissed. If the human relations compliance officer finds that there is merit in the complaint, in their opinion, then and in that event, the human relations compliance officer will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

(c) If the human relations compliance officer is unable to eliminate the alleged discriminatory practice by a conference and conciliation, then and in that event, the compliance officer shall forward said complaint to the city manager; if the city manager is not able to resolve the matter, the complaint will be forwarded to the city attorney for handling. The final determination of whether or not to prosecute on said complaint shall be left to the city attorney with the exception of the provision in section 20-3(b).

(d) The human rights compliance officer shall enforce this article in an unbiased and objective way, and shall review all complaints using the same standards and practices.

(e) The human rights compliance officer shall not have the power, authority or duty to solicit complaints or file complaints on behalf of any individual.

(f) The human rights compliance officer shall not have the power, authority or duty to compel businesses or organizations to document the sexual orientation or gender identity of employees or members.

(Code 1989, § 10-35; Ord. No. 12077, § 2, 8-19-2013)

Sec. 20-2. Definitions.

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

Aggrieved person includes any person who claims to be a victim of discriminatory practices.

Disability means a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question.

Discriminate means distinctions in treatment because of age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation of any person.

Dwelling means any building, structure, or portion thereof located within the city, which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Employer means any person employing more than five persons within the city, but does not include corporations and associations owned and operated by religious or sectarian groups.

Family includes a single individual.

Gender identity means a person's innate, deeply-felt psychological identification as male or female, which may or may not correspond to the person's body or designated sex at birth.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Protected category means age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

Sexual orientation means an individual's real or perceived heterosexuality, homosexuality or bisexuality.
(Code 1989, § 10-36; Ord. No. 12077, § 2, 8-19-2013)

Sec. 20-3. Enforcement.

(a) Any person convicted of a violation of this chapter shall be punished as provided in section 1-8.

(b) The city attorney with approval of the city council, instead of filing a complaint and information in municipal court of said city, may, as an alternative remedy, seek to have the alleged discriminatory practices abated by an action for an injunction to be maintained in the appropriate circuit court of the state.
(Code 1989, § 10-40; Ord. No. 12077, § 2, 8-19-2013)

Secs. 20-4—20-18. Reserved.

ARTICLE II. HUMAN RIGHTS COMPLIANCE OFFICER

Sec. 20-19. Purpose.

The human rights compliance officer shall review and advise the council on ways to:

(1) Work to eliminate discrimination based on age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(2) Promote responsiveness of government to concerns of all minority groups and others in the community that may be subject to bias or discrimination.

(3) Provide an open and inviting forum for city residents who believe they are facing discriminatory practices or acts so that residents can share those experiences with the human rights compliance officer for advice and counsel.

(Code 1989, § 10-32; Ord. No. 12077, § 2, 8-19-2013)

Sec. 20-20. Records.

The human rights compliance officer shall keep a complete record of its activities and a journal of all of its meetings and proceedings in accordance with the Missouri Sunshine Law.
(Code 1989, § 10-33; Ord. No. 12077, § 2, 8-19-2013)

Sec. 20-21. Powers and duties generally.

The human rights compliance officer shall have the powers and duties to:

(1) Provide a forum for individuals who believe they have been victims of discrimination;

(2) Review complaints as filed with the office;

(3) Advise the city council on human rights issues/complaints;

(4) Accept comments and concerns of citizens;

(5) Prepare and publish a written annual report describing the activities of the prior 12 months by December 31 of each year.

(Code 1989, § 10-34; Ord. No. 12077, § 2, 8-19-2013)

Secs. 20-22—20-57. Reserved.

ARTICLE III. DISCRIMINATORY PRACTICES

Sec. 20-58. Employment.

(a) It shall be unlawful:

(1) For an employer, because of any individual's protected category:

a. To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the

individual's compensation, terms, conditions, or privileges of employment.

b. To limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee.

(2) For a labor organization, because of any individual's protected category:

a. To exclude or to expel such individual from its membership or to discriminate in any manner against any of its members or against any employer or any individual employed by an employer.

b. To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any individual in any manner which would deprive or tend to deprive any individual of employment opportunities, or would limit such opportunities or otherwise adversely affect such individual's status as an employee or as an applicant for employment.

(3) For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining.

(4) Because of any individual's protected category:

a. For any employer or employment agency to print or circulate, or cause to be printed or circulated, any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

b. For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, or to classify or refer for employment, any individual.

(5) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any individual because such individual has opposed any act, practice or course of conduct made unlawful, or filed a complaint, testified, or assisted in any proceeding under this article.

(6) For any person, whether an employer or employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts made unlawful by this article, or to attempt to do so.

(b) Exceptions.

(1) Notwithstanding any other provision of this article, it shall not be unlawful for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees in different locations, provided that such differences or such systems are not the result of an intention or design to discriminate, and are not used to discriminate, because of any individual's protected category; nor shall it be unlawful for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of any protected category.

(2) Nothing contained herein shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this article to grant preferential treatment to any individual or to any group because of such individual's or group's protected category on account of an imbalance which may exist with respect to the total number or percentage of individuals of any protected category employed by any employer, referred to or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of individuals of such protected category in the city, or in the available work force in the city.

(3) Notwithstanding any other provision of this article, it shall not be unlawful because of sex to differentiate in employment compensation, terms, conditions or privileges of employment between male and female employees if such differences are otherwise required or expressly permitted by the laws of the state, or by the provisions of section 703 of the Federal Civil Rights Act of 1964, as amended, or by the provisions of section 6(d) of the Federal Fair Labor Standards Act of 1938, as amended; nor shall it be unlawful because of sex for an employer, pursuant to a pension, retirement, profit sharing, welfare or death benefit plan, to provide for the retirement of female employees at a younger age than male employees or to provide differences in annuity, death and survivors benefits between widows and widowers of employees.

(4) Notwithstanding any other provisions of this article, it shall not be unlawful for any church or religious school or religious day care center to consider sexual orientation or gender identity in any hiring or employment action.

(5) Nothing contained herein shall be interpreted to require any employer, person or entity to construct or modify operations to meet or provide non-gender specific restrooms and/or locker room facilities.

(Code 1989, § 10-37; Ord. No. 12077, § 2, 8-19-2013)

Sec. 20-59. Fair housing.

The city council hereby declares it to be the public policy of the city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent or obtain real property without regard to age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation. This article shall be deemed an exercise of the police powers of the city for protection of the public welfare, prosperity, health and peace of the citizens of the city.

(1) *Discriminatory practices.* It shall be a discriminatory practice and a violation of this article for any person to:

a. Refuse to sell or rent after the making of the bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation of any person.

b. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

c. Make, print, or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any prefer-

ence, limitation, or discrimination based on age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation or an intention to make any such preference, limitation, or discrimination.

d. Represent to any person because of age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

e. For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of persons of a particular age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

f. Discriminate in the sale or rental of dwellings on the basis of a disability, and requires the design and construction of new multifamily to meet current city building codes as they relate to federal adaptability and accessibility requirements.

g. Discriminate in the sale or rental of housing because a family has children, but exempts certain types of buildings that house older persons (e.g., section 202 Housing).

(2) *Discrimination in the financing of a house.* It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan to a person applying therefor for the purpose of purchasing, constructing, repairing, or maintaining a dwelling, or to discriminate against a person in the fixing of the amount or conditions of such loan, because of the age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation of such person or of any person associated with such person in connection with such financing.

(3) *Exemptions.*

a. The provisions of this article, and particularly section 20-3, shall not apply to the following:

1. A rental or leasing of a dwelling unit in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of the family reside in such a dwelling unit.

2. A rental or leasing to less than five persons living in a dwelling unit by the owner, if the owner or members of the family reside therein.

3. Any single-family house sold or rented by an owner, provided that such house is sold or rented:

(i) Without the use of sales or rental facilities or services of real estate brokers, agents, salesmen, or persons in the business of selling or renting dwellings; and

(ii) Without the publication, posting or mailing of any advertisement in violation of subsection (1)c of this section; provided, however, that nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or

transfer the title, and that any such private individual owner does not own any interest in, nor is there owned or reserved on the person's behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time.

b. For the purposes of subsection (3)a.3 of this section, a person shall be in the business of selling or renting dwellings if:

1. The person has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

2. The person has, within the preceding 12 months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

3. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Code 1989, § 10-38; Ord. No. 12077, § 2, 8-19-2013)

Sec. 20-60. Discrimination in public accommodations prohibited.

(a) All persons within the city are free and equal and shall be entitled to the following equal use and enjoyment within the city at any place of public accommodation without discrimination or segregation on account of age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(b) It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation as defined in RSMo 213.010 or segregate or discriminate against any such person and the use thereof on the grounds of age, ancestry, color, disability, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(c) The provisions of this section shall not apply to a private club, place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in RSMo 213.010.

(Code 1989, § 10-39; Ord. No. 12077, § 2, 8-19-2013)

Chapter 21

RESERVED

Chapter 22

LAW ENFORCEMENT

Sec. 22-1. Response to emergencies outside boundaries of municipality.

(a) Pursuant to RSMo 70.820, from and after the effective date of the ordinance from which this section is derived, all municipal police officers for the city, who have completed the basic police training program as promulgated by RSMo ch. 590, shall have the authority to respond to an emergency situation outside the boundaries of the city.

(b) As used in this section, the term "emergency situation" means any situation in which the law enforcement officer has a reasonable belief that a crime is about to be committed, is being committed, or has been committed involving injury or threat of injury to any person, property, or governmental interest and such officer's response is reasonably necessary to prevent or end such emergency situation or mitigate the likelihood of injury involved in such emergency situation. The determination of the existence of any emergency situation shall be in the discretion of the officer making the response or in the discretion of an officer or governmental officer of the political subdivision in which the emergency situation is alleged to be occurring.

(c) Pursuant to RSMo 70.820(2), law enforcement officers from the county sheriff's department and/or the department of public safety of Truman State University who are certified under RSMo ch. 590, are authorized to provide emergency assistance to city police officers.

(Code 1989, § 20-1; Ord. No. 10880, 8-21-1989; Ord. No. 11512, §§ 1, 2, 8-6-2001)

Chapter 23

RESERVED

Chapter 24

NUISANCES

Article I. In General

Article II. Nuisance and Hazard Regulations

ARTICLE I. IN GENERAL

Sec. 24-1. Manufactured homes.

(a) Whenever it shall be found by the code enforcement director that a manufactured home, as defined by chapter 26, is unfit for human occupancy, it is hereby declared that the same shall constitute a public nuisance.

(b) In such event, the code enforcement director shall give notice of the declaration of said public nuisance as follows:

(1) Said notice shall be in writing and shall include a description of the manufactured home for sufficient identification.

(2) Said notice shall specify that the manufactured home is to be vacated and either reconditioned or removed.

(3) Said notice shall include a correction order describing the repairs and improvements required for reconditioning and allowing a reasonable time for such remedial action, including removal, to be commenced and/or completed.

(4) Said notice shall be served on the owner, occupant, lessee, mortgagee, and any other person having an interest in said manufactured home as shown by public records, and shall be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication.

(c) Upon failure to commence work of reconditioning or removal within the time specified, or upon failure to proceed continuously with the work without unnecessary delay, the code enforcement director shall call and have a full and adequate hearing upon the matter, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard.

(1) After the hearing, if the evidence supports a finding that the manufactured home is unfit for human occupancy and is therefore a public nuisance which is detrimental to the health, safety or welfare of the residents of the city, the code enforcement director shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the manufactured home to be a public nuisance and ordering the same to be reconditioned or removed. If the evidence does not support a finding that the manufactured home is a public nuisance as provided for herein, then no order shall be issued.

(2) After the hearing, if the code enforcement director shall issue an order as provided herein whereby the manufactured home is to be reconditioned or removed, the city may proceed with such work and the cost of performance for abating the public nuisance shall be certified to the city clerk, who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the city collector, or other official collecting taxes, and the tax bill from the date of its issuance shall be deemed a personal debt against the owner of the manufactured home and shall also be a lien on the manufactured home until paid.

(3) After the hearing, any interested party may appeal the determination of the code enforcement director to the circuit court as established in RSMo 536.100 to 536.140, or in RSMo 536.150, as the case may be.

(Code 1989, § 17-1; Ord. No. 11374, § 1, 3-1-1999)

Sec. 24-2. Exterior display or storage of certain materials prohibited.

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

Appliances means any mechanism, device, apparatus, or equipment designed primarily for

indoor household use, including, but not limited to, stoves, refrigerators, ovens, microwave ovens, washing machines, clothes dryers, sewing machines, televisions, and similar items.

Firewood means wood products used to produce heat by burning.

Furniture means any items of household furniture designed primarily for indoor use, including, but not limited to, sofas, couches, divans, rocking chairs, reclining chairs, ottomans, beds, mattresses, box springs, desks, tables, and similar items, but excluding those items of furniture designed primarily for outdoor use.

Indoor merchandise means any item intended for sale, or resale, excluding lawn, garden, and landscape materials; agricultural products, implements and equipment; and construction materials.

(b) It shall be unlawful for any person, firm or corporation, owning, leasing or being in possession of any real estate, to collect, display, place, store, or allow or suffer to be collected, displayed, placed or stored upon the property, any appliances, furniture, indoor merchandise, or firewood, for any period of time in excess of 24 hours, except as follows:

(1) Within the walls, including screened-in porches, of a house, garage, outbuilding, building or other similar type of enclosed structure allowed by chapter 44;

(2) Within a storage bin or other structure, provided that such storage bin or structure consists of a solid fence or wall and such items are not clearly visible through such bin or other structure and provided further that such fence, bin, or wall structure is of a type allowed by chapter 44;

(3) In the case of firewood, firewood that is stacked in rows or columns; or

(4) Those items placed by the curbside for disposal and collection as a part of a city-approved clean-up event.

(Code 1989, § 17-2; Ord. No. 11439, §§ 1—3, 3-20-2000)

Sec. 24-3. Enforcement of certain conditions as nuisance.

(a) *Unlawful to let weeds, grasses and vegetation stand without cutting.* The owner, lessee, occupant, or any agent, representative or employee of such owner having control of any occupied or unoccupied lot or parcel of land within the city shall keep weeds, noxious weeds, indigenous (native) grasses (not including ornamental grasses), grasses and obnoxious growths of vegetation mowed, cut down, removed and under control as provided herein or in accordance with section 302 of the property maintenance code and whenever such weeds, noxious weeds, grass or obnoxious growths of vegetation shall extend more than eight inches above the ground on any part of the property, or 18 inches in the case of indigenous (native) grasses, the growth shall be presumed to be in violation of this section. The portions of the property which must be maintained in accordance with this section shall include all portions of the property, including those portions in front of any structures, at the side of any structures, and at the rear of the property, to the property line; including the half of any alley that is parallel with, and adjacent to, the property, and also including the area to the curb of the street, or to the edge of the street, whichever is appropriate, regardless of whether the property abuts a public right-of-way or easement belonging to the city, the state, or any other public entity and regardless of whether the right-of-way was dedicated to public use by a deed of dedication, warranty deed, quit claim deed, or easement, excepting only those portions of any property subject to an active agriculture use, within a natural wooded area, prairie land management area (requires a permit), or 20 feet from a stream bank.

(b) *Unlawful to allow accumulation of trash, rubbish or garbage.* The owner, lessee, occupant, or any agent, representative of employee of such owner having control of any occupied or unoccupied lot or parcel of land within the city shall not allow an accumulation of trash, garbage or rubbish in violation of the rubbish and garbage provisions of chapter 3 of the property maintenance code that is or may become putrid, offensive or detrimental to human health. For

purposes of this section, the term "trash" includes garbage and rubbish, as defined in the property maintenance code.

(c) *Declaration of violation as nuisance.* It is hereby declared to be an ordinance violation as a nuisance for any owner of real property, lessee, occupant, or any agent, representative or employee of such owner having control of any occupied or unoccupied lot or parcel of land within the city to permit weeds, noxious weeds, indigenous (native) grasses (not including ornamental grasses), grass or obnoxious growths of vegetation to grow without control or fail to mow or otherwise cut down, mow or regularly control such growth in violation of subsection (a) of this section, or permit the accumulation of trash as prohibited in subsection (b) of this section. Violations of this subsection may be prosecuted in municipal court. Any person who violates this section shall, upon conviction, be punished as provided in section 1-8.

(d) *Abatement of nuisance, hearing and special tax bill.* In addition to a prosecution in municipal court, the city may seek abatement of the nuisance and imposition of a tax bill. Notwithstanding any provisions for notice as contained in the property maintenance code, this section shall control in those instances where the city elects to proceed with abatement and imposition of a special tax bill. The code enforcement director is designated as the city official for this purpose under RSMo 71.285. Said city official may notify the owners of said property, or their agents, either personally or by United States mail or by posting such notice on the premises, that the city will conduct a hearing after ten days at which time the city may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not removed within said five days, the city may seek any remedy provided by law or may have the weeds removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and a tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality of the same, or in proceedings leading up to the issuance, shall be a defense thereto. Such special tax bill, if not paid when due, shall bear interest as provided by law.

(e) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Active agricultural uses of property shall be allowed, so long as the use otherwise complies with any applicable zoning provisions. However, a minimum cleared space or buffer of no less than six feet from the property line and no greater than eight inches in height shall be maintained along all property lines, excepting those property lines where the adjoining property is an active agricultural use property. Harvested hay shall be removed from the field and properly stored on the property by means of placing in a row, stacking, storing within a structure or removed from the property within 30 days of being baled.

Active agriculture use means those portions of any property which the owner or occupant has used primarily for agriculture. Agriculture land use includes the tilling of the soil, the raising of crops, horticulture, apiculture, livestock farming, the raising of small animals and poultry, dairying and animal husbandry.

Natural wooded area means an area where the land, trees, and vegetation are in and continue to remain in their natural state.

Noxious weeds includes bindweed (Convolvulus arvensis), Johnson grass (Sorghum halepense), multiflora rose (Rosa multiflora) except when cultivated for or used as understood for cultivated roses, Canada thistle (Cirsium arvense), musk thistle (Carduus nutans L.), Scotch thistle (Onoprodum acanthium L.), purple loosestrife (Lythrum salicaria), and any other weed designated as a noxious weed by state statute or regulation.

Obnoxious growth of vegetation means large growths which either may or do constitute a

menace to health, public safety or welfare or, when dry, a fire menace to adjacent improved properties.

Owner means the record owner of the property. In the case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof shall be liable under this section.

Prairie land management area means an area approved by the city for the purpose of restoring the site to a native appearance, included are native, savanna, prairie, and wetland sites. The owner must apply for a permit prior to the development of such area. Control of obnoxious and noxious weeds, plants and vegetation shall be required as a condition of any such permit.

Weeds means all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers and gardens.
(Code 1989, § 17-3; Ord. No. 11712, § 2, 5-23-2005; Ord. No. 11906, 1-4-2010; Ord. No. 11929, § 1, 7-19-2010; Ord. No. 12245, 5-15-2017)

Sec. 24-4. Wrecked, damaged, demolished, disabled, disassembled, inoperative, or currently unlicensed vehicles.

(a) For the purposes of this section, the term "vehicle" or "automotive vehicle" include any kind or type of car, truck, motorcycle, or trailer.

(b) At no time shall any vehicle located on any premises within public view be allowed to continually remain in a state of disassembly, disrepair, or in the process of being stripped or dismantled.

(c) Painting of vehicles is prohibited unless conducted inside an approved spray booth. Exception: A vehicle of any type is permitted to undergo major overhaul, including body work or painting, provided that such work is performed inside a private garage or completely enclosed structure approved for such purposes.

(d) At no time shall any inoperative vehicle of any kind or type be parked, stored on, left at, or permitted to remain upon, any portion of any private property or premises, either residentially or commercially zoned, within the city, for a period of time that exceeds seven days. Exceptions:

(1) Vehicles of the type described above may be parked or stored on such property if the vehicle is in a completely enclosed private garage or building.

(2) Vehicles of the type described above are permitted at the site of any business engaged in motor vehicle sales or vehicle repair, which holds a current city business license.

(3) Vehicles of the type described above that are used for the training of emergency personnel for extraction of vehicle occupants, fire training, medical procedures, etc.

(e) At no time shall any kind or type of automotive vehicle be parked, stored on, left at, or permitted to remain upon any portion of any private property or premises, either residentially or commercially zoned, that does not properly display current state issued license plates. Exceptions:

(1) Vehicles of the type described above may be parked or stored on such property if the vehicle is in a completely enclosed private garage or building.

(2) Vehicles of the type described above are permitted at the site of any business engaged in motor vehicle sales or vehicle repair, which holds a current city business license.

(3) Vehicles with a state license plate that has been expired less than one month.

(4) A vehicle that is manufactured solely for off-road use, or that does not require a state-issued license plate if operated on the public roads.
(Code 1989, § 17-4; Ord. No. 11907, § 1, 1-4-2010)

Secs. 24-5—24-25. Reserved.

ARTICLE II. NUISANCE AND HAZARD REGULATIONS

Sec. 24-26. Purpose of article.

It is the intention of this article to conform to state and federal regulations, and, in any instance when this article shall be in conflict with such state and federal regulations, then the standards of the state and federal government shall be presumed to be the regulations and standards required under this article.
(Code 1989, app. A, § 25-23)

Sec. 24-27. Noise.

Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so operated as to comply with the maximum performance standards governing noise set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so relocated, altered or modified as to exceed the maximum performance standards governing noise set forth hereinafter.

(1) Objectionable sounds of an intermittent nature shall be controlled, so as not to become a nuisance to adjacent uses.

(2) Notwithstanding any other provisions of this article, at no point along the boundaries of any residential district or commercial district shall the sound pressure level of any individual use permitted exceed the prescribed levels of the following table:

Frequency of Sound	*Maximum Permitted Sound Level*	
	Residential District Boundaries	*Commercial District Boundaries*
Up to 75 cycles per second	72 decibels	79 decibels
76 to 150 cycles per second	67 decibels	74 decibels
151 to 300 cycles per second	59 decibels	66 decibels
301 to 600 cycles per second	52 decibels	59 decibels
601 to 1,200 cycles per second	46 decibels	53 decibels
1,201 to 2,400 cycles per second	40 decibels	47 decibels
2,401 to 4,800 cycles per second	34 decibels	41 decibels
Above 4,800 cycles per second	32 decibels	39 decibels

Sound levels shall be measured with a sound level meter and an associate filter manufactured according to the standards prescribed by the American Standards Association. Noise levels shall be measured from the exterior lot lines of the land which a complaint has been received.
(Code 1989, app. A, § 25-24; Ord. No. 11296, 6-16-1997)

Sec. 24-28. Vibration.

(a) Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so operated as to comply with the maximum performance standards governing vibrations set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so relocated, altered or modified as to exceed the maximum performance standards governing vibration set forth hereinafter.

(b) Notwithstanding any other provision of this article, any use permitted in creating intense earthshaking vibrations, such as those sounds which are created by heavy drop forges, shall be set back at least 500 feet from the lot lines of such establishments on all sides.
(Code 1989, app. A, § 25-25; Ord. No. 11296, 6-16-1997)

Sec. 24-29. Smoke and particulate matter.

Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so oper-

ated as to comply with the maximum performance standards governing smoke and particulate matter set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be relocated, altered or modified as to exceed the maximum performance standards governing smoke and particulate matter set forth hereinafter.

(1) In addition to the performance standards specified hereinafter, the emission of smoke or particulate matter in such a manner or quantity as to be detrimental to or endanger the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.

(2) The emission from all sources within any lot area during any one-hour period of particulate matter containing more than ten percent by weight or particles having a particle density larger than 44 microns is prohibited.

(3) Dust and other types of air pollution borne by the wind from various sources, such as storage areas, yards, streets, etc., within lot lines, shall be kept to a minimum, by appropriate landscaping, oiling or other acceptable means.

(4) For the purpose of grading the density of smoke, the Ringelmann Chart, currently published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density equal to or greater than number 3 on the Ringelmann Chart is prohibited at all times, except as otherwise provided hereinafter.

(5) The location within lot lines of smokestacks shall be determined as follows:

Total smoke emission per use, the number of stacks being optional	*Smokestacks set back from lot lines on all sides*
Up to 15 smoke units per hour	Height and area regulations for district M-2 shall apply

During one-hour period in each 24-hour period each stack may emit up to 30 smoke units when blowing soot or cleaning fires with no more than eight minutes of smoke of a density on the Ringelmann Chart of number 2. Only during such fire cleaning periods shall smoke of a density on the Ringelmann Chart of number 3 be permitted, and then not for a period in excess of four minutes.

Total smoke emission per use, the number of stacks being optional	*Smokestacks set back from lot lines on all sides*
16 to 30 units per hour	250 feet

During one-hour period in each 24-hour period, each stack may emit up to 45 smoke units when blowing soot or cleaning fires with no more than eight minutes of smoke of a density on the Ringelmann Chart of number 2. Only during such fire cleaning periods shall smoke of a density on the Ringelmann Chart of number 3, may be permitted and then not for a period in excess of four minutes.

Total smoke emission per use, the number of stacks being optional	*Smokestacks set back from lot lines on all sides*
31 to 45 smoke units per hour	500 feet

During one-hour period in each 24-hour period, each stack may emit up to 60 smoke units, when blowing soot or cleaning fires with no more than eight minutes of smoke of a density on the Ringelmann Chart of number 2. Only during such fire cleaning periods shall smoke of a density on the Ringelmann Chart of number 3 be permitted, and then not for a period in excess of four minutes.

(Code 1989, app. A, § 25-26)

Sec. 24-30. Toxic or noxious matter.

(a) Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so operated as to comply with the maximum performance standards governing toxic or noxious matter set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this

chapter is derived shall be relocated, altered or modified to exceed the maximum performance standards governing toxic or noxious matter set forth hereinafter.

(b) Notwithstanding any other provisions of this chapter, no use permitted shall for any period of time discharge across the lot lines of the lot on which it is located toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury to property or business.
(Code 1989, app. A, § 25-27; Ord. No. 11296, 6-16-1997)

Sec. 24-31. Odorous matter.

(a) Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so operated as to comply with the maximum performance standards governing odorous matter set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be relocated, altered or modified to exceed the maximum performance standards governing odorous matter set forth hereinafter.

(b) Notwithstanding any other provision of this chapter, the emission or odorous matter in such quantities as to be readily detectable without instrument at any point along district boundaries shall be prohibited.
(Code 1989, app. A, § 25-28; Ord. No. 11296, 6-16-1997)

Sec. 24-32. Fire and explosive hazards.

Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so operated as to comply with the maximum performance standards governing fire and explosive hazards set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be relocated, altered or modified to exceed the maximum performance standards governing fire and explosive hazards set forth hereinafter.

(1) The storage, use or manufacture of solid materials or products from incombustible to moderate burning is permitted;

(2) The storage, use or manufacture of solid materials or products from free to active-burning to intense-burning is permitted provided the following condition is met: Such materials shall be stored, used or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an effective automatic fire extinguishing system, or such material may be stored outdoors with at least 50 feet clearance from all property lines;

(3) Any questions or conflicts with this section will be resolved by applying current state law.

(Code 1989, app. A, § 25-29; Ord. No. 11296, 6-16-1997; Ord. No. 12157, § 3, 4-20-2015)

Sec. 24-33. Glare and heat.

(a) Any use established after the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be so operated as to comply with the maximum performance standards governing glare and heat set forth hereinafter. No use already established on the effective date of adoption or amendment of the ordinance from which this chapter is derived shall be relocated, altered or modified to exceed the maximum performance standards governing glare and heat set forth hereinafter.

(b) Any operation producing intense heat or glare shall be performed within an enclosed building or behind a solid fence or wall in such a manner as to be undetectable without instruments from any point along lot lines.
(Code 1974, § 25-30; Code 1989, app. A, § 25-30; Ord. No. 11296, 6-16-1997)

Sec. 24-34. Exterior lighting.

Exterior lighting used to illuminate a structure, yard, or any part of a property for any reason

shall shine down or up upon the property in a manner that will respect surrounding property owners and does not shine directly on to a neighboring property. Exterior lighting which is reported to the city as a nuisance will be required to provide shielding or removed from the property. Public street lights are exempt from this requirement.

Chapter 25

RESERVED

Chapter 26

OFFENSES

Article I. In General

Article II. Offenses Against Morals

Article III. Offenses Against the Person

Article IV. Offenses Against Property

Article V. Offenses Against Public Health and Safety

Division 1. Generally

Division 2. Smoking Prohibited in Certain Public Places

Article VI. Offenses Against Public Peace

Division 1. Generally

Division 2. Weapons

ARTICLE I. IN GENERAL

Sec. 26-1. False impersonation.

(a) A person commits the offense of false impersonation if the person:

(1) Falsely represents to be a public servant with purpose to induce another to submit to pretended official authority or to rely upon pretended official acts, and:

a. Performs an act in that pretended capacity;

b. Causes another to act in reliance upon pretended official authority; or

(2) Falsely represents to be a person licensed to practice or engage in any profession for which a license is required by the laws of this state with purpose to induce another to rely upon such representation, and:

a. Performs an act in that pretended capacity; or

b. Causes another to act in reliance upon such representation.

(b) It shall be unlawful for any person to commit an act of false impersonation.
(Code 1974, § 16-10; Code 1989, § 26-1)

Sec. 26-2. Resisting or interfering with arrest.

(a) A person commits the crime of resisting or interfering with arrest if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

(b) This section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

(c) It is no defense to a prosecution pursuant to subsection (a) of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing is this section shall be construed to bar civil suits for unlawful arrest.

(d) Resisting, by means other than flight, or interfering with an arrest for a felony is a Class D felony; otherwise, resisting or interfering with arrest is an ordinance violation.
(Code 1974, § 16-11; Code 1989, § 26-2; Ord. No. 11381, § 2, 4-5-1999)

Sec. 26-3. Interference with legal process.

A person commits the offense of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from effecting the service of any process, the person interferes with or obstructs such person. The term "process" includes any writ, summons, subpoena, warrant other than arrest warrant, or other process or order of a court.
(Code 1974, § 16-11; Code 1989, § 26-3)

Sec. 26-4. Interference with a law enforcement officer.

A person commits the offense of interference with a law enforcement officer if the person knowingly resists, opposes or interferes with a law enforcement officer in the discharge of any lawful duty.
(Code 1989, § 26-4)

Sec. 26-5. Rules and regulations during nonviolent civil rights demonstrations.

(a) The city hereby adopts and will enforce this section prohibiting the use of excessive force by law enforcement officers within its jurisdic-

tion against any individual engaged in nonviolent civil rights demonstrations. The city also prohibits the physical barring of any entrance or exit to such facility and will enforce all applicable ordinances and state laws regarding same.

(b) Any person found to be violating the provisions of this section shall be served by the city with notice stating the nature of the violation.

(c) Any person guilty of this violation shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in the amount provided in section 1-8 for each violation. Each separate occurrence in which any such violation shall take place shall be deemed a separate offense.

(d) Any person violating any of the provisions of this section shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.
(Code 1989, § 26-5; Ord. No. 11103, §§ 2—5, 7-12-1993)

Secs. 26-6—26-28. Reserved.

ARTICLE II. OFFENSES AGAINST MORALS

Sec. 26-29. Prostitution.

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

Patronizing prostitution. A person patronizes prostitution if he or she:

(1) Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person;

(2) Gives or agrees to give something of value to another person with the understanding that such person or another person will engage in sexual conduct with any person; or

(3) Solicits or requests another person to engage in sexual conduct with any person in return for something of value.

Prostitution. A person commits prostitution if the person engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third person.

Sexual conduct means when there is:

(1) Sexual intercourse, which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results;

(2) Deviate sexual intercourse, which means any sexual act involving the genitals of one person and the mouth, tongue or anus of another person; or

(3) Sexual contact, which means any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party.

Something of value means any money or property, or any token, object or article exchangeable for money or property.

(b) No person shall perform an act of prostitution.

(c) No person shall patronize prostitution.

(d) In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

(1) Both persons were of the same sex; or

(2) The person who received, agreed to receive or solicited something of value was a male and the person who gave or agreed or offered to give something of value was a female.
(Code 1974, § 16-2; Code 1989, § 18-26)

Sec. 26-30. Public indecency unlawful; elements defined.

(a) A person who knowingly or intentionally, in a public place, to include, but not be limited to, indoor and outdoor entertainment establishments, restaurants, theaters, bars, bookstores and places of public accommodation where one or more other persons is present:

(1) Engages in sexual intercourse;

(2) Engages in deviate sexual conduct;

(3) Appears in a state of nudity; or

(4) Fondles his or her own genitals or those of another person;

commits the unlawful act of public indecency.

(b) The term "nudity means the showing of the human male or female genitals, pubic area, anus or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering or any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.
(Code 1989, § 18-27; Ord. No. 11177, § 2, 4-3-1995)

Secs. 26-31—26-48. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON

Sec. 26-49. Assault.

A person commits the offense of assault if the person:

(1) Attempts to cause or recklessly causes physical injury to another person;

(2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon;

(3) Purposely places another person in apprehension of immediate physical injury;

(4) Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) Knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.
(Code 1974, § 16-1.1; Code 1989, § 18-41)

Secs. 26-50—26-71. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Sec. 26-72. Damaging property; effect of claim of right.

(a) It shall be unlawful for any person to:

(1) Knowingly damage property of another; or

(2) Damage property for the purpose of defrauding an insurer.

(b) A person does not commit an offense by damaging, tampering with, operating, riding in or upon, or making connection with property of another if the person does so under a claim of right and has reasonable grounds to believe the person has such a right. The defendant shall have the burden of injecting the issue of claim of right.
(Code 1989, § 18-61)

Sec. 26-73. Posting handbills; littering; penalty.

(a) It shall be unlawful for any person to place, post, attach or in any way deposit or cause to be placed, posted, or attached any sign, poster, handbill, paper, or similar article or thing at any time upon any utility pole or official traffic-control device, or cause the same to be done within the public right-of-way so as to obstruct the vision of the operator of any motor vehicle.

(b) It shall be unlawful for any person to litter, scatter, place or in any way deposit or cause to be scattered, placed or deposited any article or thing within the public right-of-way or upon public property.

(c) Any person convicted under the provisions of this section shall be guilty of an ordinance violation and shall be punished as provided in section 1-8.
(Code 1989, § 18-62; Ord. No. 10632, § 2, 10-1-1984; Ord. No. 10834, §§ 1—3, 8-15-1988)

Sec. 26-74. Littering violation.

A person commits the violation of littering if the person throws or places, or causes to be thrown or placed, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature, or description on the right-of-way of any public road within the city limits or on or in any of the waters of the city, or on any private real property owned by another without consent.
(Code 1989, § 18-63; Ord. No. 10958, § 2, 10-1-1990)

Sec. 26-75. Stealing.

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

Appropriate means to take, obtain, use, transfer, conceal or retain possession of.

Coercion.

(1) The term "coercion" means a threat, however communicated:
   a. To commit any crime;
   b. To inflict physical injury in the future on the person threatened or another;
   c. To accuse any person of any crime;
   d. To expose any person to hatred, contempt or ridicule;
   e. To harm the credit or business repute of any person;
   f. To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or
   g. To inflict any other harm which would not benefit the actor.

(2) A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Credit device means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

Dealer means a person in the business of buying and selling goods.

Deceit means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that the actor did not subsequently perform the promise.

Deprive means:

(1) To withhold property from the owner permanently;

(2) To restore property only upon payment of reward or other compensation; or

(3) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Of another. Property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest

therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property means anything of value, whether real or personal, tangible or intangible, in possession or in action, and includes, but is not limited to, the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Receiving means acquiring possession, control or title or lending on the security of the property.

Services includes transportation, telephone, electricity, gas, water, cable television services, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

Writing includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

(b) *Prohibition.* A person commits the offense of stealing, which shall be unlawful, if the person appropriates property or services of another with the purpose to deprive the person thereof, either without consent or by means of deceit or coercion. Evidence of the following is admissible in any prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) Failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) Gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) Left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) Surreptitiously removed or attempted to remove baggage from a hotel, inn or boardinghouse.

(c) *Effect of claim of right.* A person does not commit an offense under subsection (b) of this section if, at the time of the appropriation, the person:

(1) Acted in the honest belief that the person had the right to do so; or

(2) Acted in the honest belief that the owner, if present, would have consented to the appropriation.

The defendant shall have the burden of injecting the issue of claim of right.

(d) *Receiving stolen property.* A person commits the crime of receiving stolen property if, for the purpose of depriving the owner of a lawful interest therein, the person receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen. Evidence of the following is admissible in any criminal prosecution under this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That the person was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That the person received other stolen property in another transaction within the year preceding the transaction charged;

(3) That the person acquired the stolen property for a consideration which the person knew was far below its reasonable value.

(Code 1974, § 16-12; Code 1989, § 18-64)

Sec. 26-76. Trespass—First degree.

(a) It shall be unlawful for any person to knowingly enter unlawfully or knowingly remain unlawfully in a building or inhabitable structure or upon real property.

(b) A person does not commit the offense of trespass by entering or remaining upon real property unless the real property is fenced or

otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner reasonably likely to come to the attention of intruders.

(Code 1974, § 16-16; Code 1989, § 18-65; Ord. No. 10954, § 1, 9-24-1990)

Sec. 26-77. Trespass—Second degree.

A person commits the offense of trespass in the second degree if the person enters unlawfully upon the real property of another.
(Code 1989, § 18-65.1; Ord. No. 10954, § 2, 9-24-1990)

Sec. 26-78. Peeping Toms.

It shall be unlawful for any person found in the city trespassing upon the premises of another whereon is located a dwelling house during the hours between one hour after sunset and one hour before sunrise, such person being upon such premises and being then and there engaged in peeping or peering into such dwelling house, or being upon such premises with the intention of peeping or peering into such dwelling house.
(Code 1989, § 18-65.2; Ord. No. 11775, § 3, 9-20-2006)

Sec. 26-79. Penalties.

Unless a different penalty is specifically provided, any person convicted under the provisions of this article shall be guilty of a violation and shall be punished as provided in section 1-8, and such conviction shall be deemed an ordinance violation.
(Code 1989, § 18-66; Ord. No. 10632, § 3, 10-1-1984)

Secs. 26-80—26-101. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

DIVISION 1. GENERALLY

Sec. 26-102. Stagnant water, junk, trash, etc.; permitting on private property.

It shall be unlawful for any person owning or in possession, control or management of any lot, tract or parcel of land or building or other premises within the city to suffer or cause or permit to exist, in or upon the same, any stagnant water, junk, trash, or other substance of any kind or character whatsoever which is or may become putrid, offensive or detrimental to human health.
(Code 1974, § 16-19; Code 1989, § 18-86)

Sec. 26-103. Depositing bodily substance in public.

It shall be unlawful for any person to deposit, place, or leave on any public or private property bodily substances such as, but not limited to, urine, feces, contaminated blood or other infectious bodily fluid. This does not include the depositing, placing, or leaving the bodily substance in a manner and in such a way that is legal or otherwise conforms to commonly accepted health standards.
(Code 1989, § 18-87; Ord. No. 11216, § 1, 10-2-1995)

Secs. 26-104—26-134. Reserved.

DIVISION 2. SMOKING PROHIBITED IN CERTAIN PUBLIC PLACES

Sec. 26-135. Definitions.

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

Actively passing means to travel alongside, across, through or in front of a particular place or location while proceeding from one place or location to a different place or location.

Amusement place means a building used for billiards, bowling or roller skating and other similar entertainment, open to the public.

Banquet facility means a stand-alone building when used primarily for private or public gatherings or entertainment.

Bar means an establishment that serves alcoholic beverages for consumption by guests on the premises, and all indoor and outdoor areas thereof, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

City operated facility means any building located within the city limits, which is owned, leased or under control of the city for providing city services.

Control means to exercise authority or influence over.

Employee means any person who performs services for an employer for compensation.

Employer means a person, partnership, association, corporation, trust, or other organized group of individuals, which utilizes the services of one or more employees.

Membership association means a private organization which:

(1) Is organized primarily for the benefit of its members;

(2) Its members are required to pay dues;

(3) Is organized primarily as:

a. A charitable or benevolent association;

b. A recreational association;

c. A fraternal association;

d. An athletic association;

e. A military veterans association;

f. A religious association; or

g. A kindred association;

(4) Is a not-for-profit organization under the laws of the state;

(5) Is managed and operated by a board consisting entirely of its members; and

(6) Is not primarily engaged in the preparation and serving of alcoholic beverages by the drink and/or food.

Owner means a person, partnership, association, corporation, trust, or other organized group of individuals.

Recreation facility means any public park, playground, recreation center or recreation area, whether it is improved or unimproved real property located within the city limits, which is owned, leased or under control of the city for recreational purposes, including all indoor and outdoor areas.

Restaurant means an eating establishment thereof, and all indoor and outdoor areas thereof, including, but not limited to, coffee shops, cafeterias, sandwich stands, bed and breakfast establishments and private and public school cafeterias, which gives or offers for sale food to the public. The term "restaurant" includes an attached bar.

Smoking means inhaling, exhaling, burning or possessing any lighted cigar, cigarette, pipe, weed, plant, or other tobacco product or possessing any lighted cigar, cigarette or pipe containing a combustible and burning substance other than tobacco.
(Code 1989, § 18-88; Ord. No. 11796, § 1, 4-4-2007)

Sec. 26-136. Prohibition of smoking.

(a) Smoking is prohibited in all bars, city operated facilities, recreation facilities, restaurants, amusement places, bed and breakfasts and banquet facilities when employees are present and working at the banquet facility; provided, however, that smoking is not prohibited in facilities owned and/or operated by a membership association or under the control of a membership association if such facility is used primarily for its members.

(b) Smoking is prohibited within a distance of ten feet from entrances, operable windows or ventilation systems of buildings or structures where smoking is prohibited in subsection (a) of

this section. This subsection shall not apply to persons who are actively passing by such entrance, operable window or ventilation system.

(c) Notwithstanding any other provision of this division, an owner, operator, manager, or other person in control of an establishment, facility or outdoor area may, 30 days after written notice is given to the city clerk, declare that the entire establishment, facility or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of this division is posted by an owner, operator, manager, or other person in control of an establishment, facility or outdoor area.
(Code 1989, § 18-89; Ord. No. 11796, § 1, 4-4-2007; Ord. No. 11800, §§ 1, 2, 6-5-2007)

Sec. 26-137. Responsibilities of proprietors, owners and managers.

(a) Any person who owns, manages, operates, or otherwise has control of an area where smoking is prohibited by the provisions of section 26-136(a) shall not permit, cause, suffer or allow any person to violate the provisions of this division in that place.

(b) It shall be an affirmative defense to an alleged violation of this section if the person who owns, manages, operates or otherwise controls a public place listed in section 26-136(a) does the following:

(1) Immediately requests that the person in possession of lighted smoking materials extinguish the same;

(2) If the lighted smoking materials are not extinguished, immediately requests that the person in possession of such lighted smoking materials leave the area where smoking is prohibited by the provisions of this division; and

(3) If the person in possession of such lighted smoking materials does not leave the area where smoking is prohibited by the provisions of this division, immediately notifies the police department of the violation of section 26-136(a).

The above shall only be an affirmative defense for the one who owns, manages, operates, or otherwise controls a public space, and shall have no implication for an individual violating this division as expressed by section 26-136.

(c) A person who owns, manages, operates, or otherwise has control of a public place listed in section 26-136(a) shall clearly and conspicuously post "No Smoking" signs, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), near all entrances where smoking is prohibited by this division. Such signage shall consist of letters not less than one inch in height.
(Code 1989, § 18-90; Ord. No. 11796, § 1, 4-4-2007; Ord. No. 11800, § 2, 6-5-2007)

Sec. 26-138. Penalty for violation of this division.

(a) A person who smokes in an area where smoking is prohibited by the provisions of this division shall be guilty of an ordinance violation, punishable by:

(1) A fine not less than $100.00 for a first violation.

(2) A fine not less than $200.00 for a second violation within a period of 12 consecutive months.

(3) A fine in the amount of $500.00 for a third or subsequent violation within a period of 12 consecutive months, or by imprisonment for a period not exceeding 90 days, or by both such fine and imprisonment.

(b) Any person who owns, manages, operates, or otherwise has control of an area where smoking is prohibited by the provisions of section 26-136(a), who fails to comply with the provisions of this division, shall be guilty of an ordinance violation, punishable by:

(1) A fine not less than $100.00 for a first violation.

(2) A fine not less than $200.00 for a second violation within a period of 12 consecutive months.

(3) A fine in the amount of $500.00 for a third or subsequent violation within a period of 12 consecutive months, or by imprisonment for a period not exceeding 90 days, or by both such fine and imprisonment.

(c) Each incident for which a violation of this division occurs shall be a separate and distinct violation.
(Code 1989, § 18-91; Ord. No. 11796, § 1, 4-4-2007)

Sec. 26-139. Other applicable laws.

This division shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
(Code 1989, § 18-92; Ord. No. 11796, § 1, 4-4-2007)

Sec. 26-140. Enforcement of division.

(a) The authority to administer the provisions of this division is vested with the city manager and duly authorized representatives.

(b) Whenever the need arises, the city manager may call upon the police, fire and codes departments and other departments of the city to aid in the enforcement of the provisions of this division.

(c) Notice of the provisions of this division shall be given to all applicants who have applied for a business license in the city.
(Code 1989, § 18-93; Ord. No. 11796, § 1, 4-4-2007)

Secs. 26-141—26-163. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC PEACE

DIVISION 1. GENERALLY

Sec. 26-164. Noise.

(a) For purposes of this section, the term "public place" means any place which, at the time, is open to the public. The term "public place" includes property which is owned publicly or privately.

(b) A person commits the crime of peace disturbance if the person unreasonably and knowingly disturbs or alarms another person by:

(1) Offensive or indecent language which is likely to produce an immediate violent response from a reasonable recipient;

(2) Offensive or indecent gestures or other offensive or indecent conduct which are likely to produce an immediate violent response from a reasonable recipient; or

(3) Threatening, quarreling, challenging or fighting which is likely to produce an immediate violent response from a reasonable recipient.

(c) It shall be unlawful for any person in the city to engage in unreasonable, unnecessary and excessive yelling, shouting, hooting, whistling or singing between the hours of 10:00 p.m. and 6:00 a.m. There shall be excepted from this provision any organized sporting events, fairs, carnivals or like activities.

(d) It shall be unlawful for any person to make, continue or cause to be made or continued, any noises other than the human noises described in subsection (c) of this section that are loud, unnecessary or unusual. The following, among others, are declared to be loud, unnecessary or unusual noises and constitute a violation of this section; provided, however, that this enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn or noise-emitting device on any automobile, motorcycle, bus or other vehicle for an unnecessary and unreasonable period of time.

(2) The playing of any radio, phonograph, musical instrument or other device used for producing or reproducing sound in such manner, at such time and with such volume as to be unnecessary and unreasonable.

(3) The keeping of any animal, bird or fowl which produces frequent or long, unreasonable barking, howling or other noises.

(4) The use of an automobile, motorcycle or other vehicle, machinery or equipment so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises, including unreasonable acceleration, deceleration or racing of motors whether in motion or at rest.

(5) The unreasonable, unnecessary and prolonged blowing of any whistle.

(6) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, motorboat engine or other power device except through a muffler or other device in constant operation which will effectively prevent loud or explosive noises therefrom.

(7) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, which unreasonably interferes with the workings or sessions therefrom, or the creation of any excessive noise on any street adjacent to any hospital.

(8) The erection, including excavation, demolition, alteration or repair of any building in any residential or commercial district or section and the excavation of streets and highways in any residential district or section, other than between the hours of 6:00 a.m. and 10:00 p.m., except in cases of urgent necessity in the interest of public health and safety. If the city engineer determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways, within the hours of 10:00 p.m. and 6:00 a.m., and if the engineer shall further determine that no loss or inconvenience would result to any party in interest, the engineer may grant permission for such work to be done within the hours of 10:00 p.m. and 6:00 a.m. on application being made at the time the permit for the work is awarded or during the progress of the work.

(9) The creation of loud and excessive noise in connection with the loading of any garbage or trash on a compactor truck or with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or other containers between the hours of 10:00 p.m. and 6:00 a.m.

(10) The use of any musical instrument, loudspeaker or other noise-making device for the purpose of attracting attention to any performance, show, sale or display of merchandise or for any other purpose in the business or residence district between the hours of 10:00 p.m. and 6:00 a.m., except parades authorized by permit from the police chief.

(11) The operation on private property or on a public way in any residential or commercial district of any power equipment generating unreasonable noise that is used for home or building repair or grounds maintenance, between the hours of 10:00 p.m. and 6:00 a.m. Such power equipment shall include, but not be limited to, lawn mowers, garden tools, snow removal equipment, electric or chain saws or any other power hand tools or other equipment used for home or building repair or grounds maintenance.

(e) Any noises enumerated above that are plainly audible at the property line in the case of noises originating on private property, or from a distance of 50 feet in the case of noises originating on a public place, shall be prima facie evidence of a violation of this section. There shall be excepted from the terms of this section the following noises:

(1) Any ambulance, any officer of the law while engaged in necessary public business or any vehicle in the city while engaged in necessary public business.

(2) Excavations or repairs of bridges, streets, highways, water lines or sewer lines by or on behalf of the city, the county or the state, during the nighttime when the

public welfare and convenience renders it impracticable to perform such work during the day.

(3) The reasonable use of amplifiers in the course of public address which are noncommercial in nature and when such use is outside the business district of the city.

(4) Any use of noise-emitting devices or the creation of any noise where permit has been obtained from the police chief, but only to the extent as provided in the permit.

(5) Any organized sporting events or fairs, carnivals or like activities.

(f) Penalties for violations of subsections (b) through (e) of this section shall be as follows:

(1) Any person who shall violate any of the provisions of subsection (b) of this section shall be guilty of a violation and shall, upon conviction, be punished as provided in section 1-8.

(2) Any person who shall violate any of the provisions of subsections (c) through (e) of this section shall be guilty of a violation and shall, upon conviction thereof, be sentenced as follows:

a. The first conviction shall be punishable by a fine of not less than $50.00 nor more than $100.00, plus the cost of prosecution, and, in default of payment of such fine and costs, imprisonment for not more than four days.

b. The second conviction shall be punishable by a fine of not less than $100.00 nor more than $200.00, plus the cost of prosecution, and, in default of payment of such fine and costs, imprisonment for no more than eight days.

c. The third and subsequent convictions shall be punishable by a fine of not less than $200.00 nor more than $300.00, plus the costs of prosecution, and, in default of payment of such fine and costs, imprisonment for no more than 30 days.

(3) If any person shall permit a violation of this section to continue after notice to desist, each additional violation shall be considered a separate offense.

(4) In any proceeding for the violation of this section, the tenants, owners and/or occupants, after proper notice of the violations, shall be considered equally responsible for committing or allowing to commit a violation from the location or occupancy under their control.

(Code 1974, §§ 16-3A—16-3D; Code 1989, § 18-106; Ord. No. 10691, § 2, 10-21-1985)

Secs. 26-165—26-181. Reserved.

DIVISION 2. WEAPONS

Sec. 26-182. Unlawful use; exceptions.

(a) It shall be unlawful for any person to knowingly:

(1) Carry concealed upon or about the person a switchblade knife, a firearm, a blackjack or any other weapon readily capable of lethal use unless authorized by RSMo 571.094;

(2) Set a spring gun;

(3) Exhibit, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner;

(4) Possess a firearm or projectile weapon while intoxicated; or

(5) Carry a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public

assemblage of persons met for any lawful purpose unless authorized by RSMo 571.094.

(b) Subsections (a)(1), (3) and (5) of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the Armed Forces or National Guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the state constitution with the judicial power of the state;

(5) Any person whose bona fide duty is to execute process, civil or criminal.

(c) Subsections (a)(1), (4) and (5) of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subsection (a)(1) of this section does not apply when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in the dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through the state.
(Code 1974, § 16-5; Code 1989, § 18-121; Ord. No. 11635, §§ I, II, 10-6-2003)

Sec. 26-183. Discharge of air rifles, etc.

It shall be unlawful for any person to discharge an air rifle, BB gun, gas pistol, compressed air gun, or other destructive devices, excluding bows of any kind, on that person's own premises or upon or onto the premises of any other person within the city without first obtaining permission to do so from the police chief.
(Code 1974, § 16-1; Code 1989, § 18-122; Ord. No. 11889, § I, 8-21-2009)

Sec. 26-184. Discharging firearms; exceptions.

(a) *Discharging prohibited.* Except as provided herein it shall be unlawful for any person to discharge or fire any gun, rifle or pistol or other firearms within the city, provided that nothing in this section shall be construed to prevent an officer of the law in the discharge of official duties from discharging such firearms.

(b) *Exceptions.* Exceptions to this section are as follows:

(1) *Destruction of property.*

a. If any wildlife is damaging property, then, subject to federal regulations governing the protection of property from migratory birds, and further subject to all regulations promulgated by the conservation commission of the state, the owner of such property, or the owner's authorized agent, may make application to the police chief for a permit to discharge a firearm within the city for the purpose of killing such wildlife.

b. The applicant for such a permit shall include in such application the name and address of the applicant, a description of the property being damaged by wildlife, a description of the wildlife damaging such property, and the term for which such permit is sought, not to exceed seven days.

c. Upon proper application, the police chief may issue a permit to discharge a firearm within the city for the purpose of killing wildlife; provided, however, such permit shall authorize the discharge of a firearm only upon

real property owned by the applicant, or the applicant's principal, for the purpose of killing wildlife present on such real property as described in such application, and the term of such permit shall not exceed seven days.

d. Prior to the issuance of any permit the police chief shall require the owner, and the owner's agent, if any, to execute an indemnification agreement in favor of the city, in form approved by the city attorney, indemnifying the city from any liability arising out of, or related directly, or indirectly, to, the conduct authorized under the terms of such permit; provided, further, that, prior to the issuance of any such permit, the police chief shall require the owner, and the owner's agent, if any, to obtain the approval of the proposed issuance of such a permit from a local agent of the state department of conservation.

(2) *Shooting galleries.* The discharge of firearms shall be permitted in commercial shooting galleries located in a properly zoned district, and operated under a current business license issued by the city.

(3) *Special shooting events.* The police chief is authorized to issue permits to any civic, service, fraternal, veteran, political or charitable club or organization for special one-day shooting events to be held at such places as, in the opinion of the police chief, shall provide maximum safety for all persons and property concerned; provided, however, that alcoholic beverages may not be consumed in the immediate vicinity of such an event by any person participating therein.

(Code 1974, § 16-5; Code 1989, § 18-123; Ord. No. 10801, § 2, 12-21-1987)

Sec. 26-185. Firearms in city buildings.

(a) No person who has been issued a Missouri lifetime or extended concealed carry permit, or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of building owned, leased or controlled by the city.

(b) Signs shall be posted at each entrance of each building entirely owned, leased or controlled by the city stating that carrying of firearms is prohibited.

(c) This section shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges, or private dwellings owned, leased or controlled by the city.

(d) Any person violating this section may be denied entrance to the building or ordered to leave the building. No other penalty shall be imposed for a violation of this section.

(e) This section shall not apply to, or affect, all state, county, and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state, or for violation of ordinances of counties or municipalities of the state.

(Code 1989, § 18-124; Ord. No. 11635, § III, 10-6-2003)

Sec. 26-186. Hunting prohibited on city property.

Hunting is prohibited on lands and waters owned or leased by the city, except as otherwise provided by ordinance.

(Code 1989, § 18-125; Ord. No. 11887, § II, 8-3-2009; Ord. No. 11889, § II, 8-21-2009)

Chapter 27

RESERVED

Chapter 28

PARKS AND RECREATION

Article I. In General

Article II. Forest Lake

Article III. Hazel Creek Lake

Article IV. Dog Park

ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

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

Director means the parks and recreation director, or designee, of the city.

Recreation facilities means any public park, playground, recreation center or recreation area, whether it is improved or unimproved real property and whether located within or without the territorial limits of the city, which is owned, leased or under control of the city for recreational purposes.
(Code 1974, § 17-2; Code 1989, § 19-1; Ord. No. 11783, § 1, 1-17-2007; Ord. No. 11983, § 1, 12-5-2011)

Sec. 28-2. Enforcement.

(a) The parks and recreation director, parks and recreation staff, and city police shall, in connection with their official duties, diligently enforce the provisions of this chapter.

(b) For special events, the parks and recreation director, with a vote of the council, may waive any provision of this chapter or any other provision of this Code as they pertain to events occurring within the city parks.
(Code 1974, § 17-3(y); Code 1989, § 19-2; Ord. No. 12015, § I, 7-16-2012)

Sec. 28-3. Reservations.

Groups desiring guaranteed future dates to use various recreation facilities shall submit to the parks and recreation director a request to reserve such facilities. All reservations should be made as outlined in city council policy regarding use of city facilities.
(Code 1974, § 17-3(a); Code 1989, § 19-3)

Sec. 28-4. Trees, plants and property.

It shall be unlawful for any person to pick, dig, remove, injure or destroy any tree or plant, or remove signs or public property in any recreation facility without written permission of the parks and recreation director.
(Code 1974, § 17-3(b); Code 1989, § 19-4)

Sec. 28-5. Fires.

No person shall build, kindle or light a fire within any recreational facility in any portable equipment or in any location except those established for the purpose. No person shall discard or permit unattended any lighted cigar, cigarette or match or other article within any recreation facility.
(Code 1974, § 17-3(c); Code 1989, § 19-5)

Sec. 28-6. Firearms and fireworks in recreation facilities.

It is unlawful for any person to possess weapons, airguns, slingshots, firecrackers, bombs, torpedos, rockets or any other type of fireworks or pyrotechnics within any recreation facility unless otherwise authorized.

Sec. 28-7. Birds and animals.

No person shall take, kill, wound, mistreat or molest any birds or animals, either wild or domesticated, within any recreational facility. This section shall not prohibit lawful hunting or fishing on Hazel Creek property as defined in article IV of this chapter, or fishing at Forest Lake and Spur Pond.
(Code 1974, § 17-3(e); Code 1989, § 19-7; Ord. No. 11096, § 1, 6-21-1993)

Sec. 28-8. Sanitation.

(a) No person shall use any water within any recreation facility for the purpose of cleaning or cooking except where specific provisions are made therefor.

(b) No person shall leave or throw away any garbage, cans, bottles, ashes, glass or any other refuse except into garbage receptacles provided for that purpose.
(Code 1974, § 17-3(f); Code 1989, § 19-8)

Sec. 28-9. Dogs.

(a) With the exception of the McKinney Bark Park, no person shall permit a dog in any recreational facility unless the dog is licensed and controlled as required by this Code device.

(b) No person shall permit their dog to defecate in any recreational facility; should this occur, the owner shall promptly pick-up the feces and dispose of the feces in a suitable trash receptacle.

(c) All dogs shall be prohibited from playing fields and spectator seating areas during game play except for dogs included under "service animals" as defined by and provided for in the Americans With Disabilities Act, title III, section 36.104.
(Code 1974, § 17-3(g); Code 1989, §§ 19-9, 19-28; Ord. No. 11747, §§ 1, 2, 3-6-2006)

Sec. 28-10. Horseback riding.

No person shall ride a horse within any recreational facility except on designated bridle trails. Where permitted, horses shall be properly restrained and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.
(Code 1974, § 17-3(h); Code 1989, § 19-10)

Sec. 28-11. Exhibitions.

No person shall conduct or maintain any show, performance, concert, place of amusement or exhibition within any recreation facility without completing the special event application and obtaining written permission from the parks and recreation director.
(Code 1974, § 17-3(i); Code 1989, § 19-11)

Sec. 28-12. Advertising.

No person shall place, post or affix any handbill, circular, pamphlet, advertisement or sign within any recreation facility.
(Code 1974, § 17-3(j); Code 1989, § 19-12)

Sec. 28-13. Vehicles.

No person shall operate or park any motor vehicle on park land off designated roads.
(Code 1974, § 17-3(k); Code 1989, § 19-13)

Sec. 28-14. Open park space.

No person shall play or participate in any organized league game or practice in any recreational facility except in such places as shall be specifically designated thereon. Golfing shall not be permitted in any facility otherwise not established as a golf course, driving range, or putting green.
(Code 1974, § 17-3(l); Code 1989, § 19-14)

Sec. 28-15. Camping.

No person shall camp or lodge within any recreational facility, or leave in a city park after closing hours, any vehicle to be used or that could be used for such purposes, such as house trailers, camp trailers, camp wagons or the like, without completing a special event application and receiving written permission from the parks and recreation director.
(Code 1974, § 17-3(m); Code 1989, § 19-15)

Sec. 28-16. Adults to ensure supervision of certain children.

No parent or guardian shall permit their child, if such child is under the age of seven years, to use any area within any recreation facility unless such child is supervised by an individual who is 14 years of age or older appointed for that purpose.
(Code 1974, § 17-3(n); Code 1989, § 19-16)

Sec. 28-17. Liquor.

No person shall possess, exhibit, transport or drink any alcoholic or intoxicating beverages within any recreation facility, unless approved through city policy regarding use of city facilities.
(Code 1974, § 17-3(o); Code 1989, § 19-17; Ord. No. 11865, § 2, 3-16-2009)

Sec. 28-18. Hours.

No person shall enter or remain, or permit any private vehicle to enter or remain on any recreational facility between the hours of 11:00 p.m. and 5:00 a.m., without written permission of the parks and recreation director. Hazel Creek Lake and Spur Pond, as referenced in the revised

statutes of the state, and Forest Lake, are closed to public use from 10:00 p.m. to 4:00 a.m. daily; however, hunting, fishing, trapping, dog training, camping, launching boats and landing boats are permitted at any time on areas where these activities are authorized.
(Code 1974, § 17-3(p); Code 1989, § 19-18; Ord. No. 11983, § 2, 12-5-2011)

Sec. 28-19. Going onto ice.

No person shall go onto ice on any of the waters in any recreational facility except Spur Pond to participate in trout fishing, provided such person wears a life jacket, bright colored clothes and carries a two-way communication device. Persons who trout fish do so at their own risk.
(Code 1974, § 17-3(q); Code 1989, § 19-19)

Sec. 28-20. Swimming.

(a) No person shall swim or wade in any lake, stream or pond within any recreational facility, except as otherwise permitted in this chapter.

(b) No person shall enter the aquatic center outside of regular business hours except under the authorization and written permission of the parks and recreation director.
(Code 1974, § 17-3(r); Code 1989, § 19-20)

Sec. 28-21. Interference.

No person shall use or attempt to use or interfere with the use of any table, space or facility within a park or facility which at the time is reserved for any other person or group which has received a permit for such use.
(Code 1974, § 17-3(s); Code 1989, § 19-21)

Sec. 28-22. Closed areas.

No person shall enter an area posted as "Closed to the Public." The parks and recreation director may close any section or part of a park or recreation facility at any time and for any interval of time, either temporarily or at regular or stated intervals which the parks and recreation director shall find reasonably necessary.
(Code 1974, § 17-3(t); Code 1989, § 19-22)

Sec. 28-23. Solicitations.

No person shall solicit money or contributions for any purpose, whether public or private, within any recreation facility.
(Code 1974, § 17-3(u); Code 1989, § 19-23)

Sec. 28-24. Boating.

No person shall operate any watercraft on any pond within any recreation facility.
(Code 1974, § 17-3(v); Code 1989, § 19-24)

Sec. 28-25. Bicycles and motor bikes.

No person shall ride, drive or operate a bicycle, motor bike, motorized scooter, or go-cart within any recreation facility on other than a paved vehicular road or path designated for that purpose.
(Code 1974, § 17-3(w); Code 1989, § 19-25)

Sec. 28-26. Article for sale.

No person shall expose or offer for sale any article or thing, nor shall the person station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing in any recreation facility. Exception is made as to any licensed concessionaire acting by and under the authority of the city or parties having written permission from the parks and recreation director.
(Code 1974, § 17-3(x); Code 1989, § 19-26)

Sec. 28-27. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any provision of this chapter. Any person so violating or failing to comply with any provision of this chapter shall be guilty of an ordinance violation and be punishable as provided in section 1-8.
(Code 1974, § 17-4; Code 1989, § 19-27)

Sec. 28-28. Skate park use.

(a) The skate park is designed for use with skate boards, inline skates, roller skates, bicycles and non-motorized scooters only.

(b) The skate park is a skate-at-your-own-risk facility. Children under nine years of age should be supervised by an adult.

(c) Use of protective gear is encouraged.

(d) Food, glass containers, loud music, disorderly behavior and motorized vehicles are prohibited.

(e) The addition of ramps, jumps and other obstacles are not allowed. The removal or relocation of park appurtenances is prohibited.

(f) The parks and recreation director reserves the right to close the skate park facility for maintenance or safety concerns at any time.

Sec. 28-29. Playgrounds.

Playground equipment shall be used by the age group and in the manner for which the equipment was designed. Use of playground equipment shall be at the patron's risk.

Sec. 28-30. Model airplanes, drones, remote control vehicles.

It shall be unlawful to operate any model airplane, drone or remote control vehicle, with or without video recording capabilities, in any city facility without the written permission of the parks and recreation director. Use of all model airplanes, drones and other airborne remote control vehicles must also follow all federation regulations.

Secs. 28-31—28-80. Reserved.

ARTICLE II. FOREST LAKE

Sec. 28-81. Adoption and enforcement of state statutes.

The city hereby adopts and agrees to enforce, with noted exceptions, all boating and equipment regulations as defined by the revised statutes of the state on Forest Lake.

(1) Any person violating any rule or regulation adopted by the city shall be subject to prosecution under the provision of this Code and other laws of the city and the state, provided that boating violations may, at the discretion of the city, result in cancellation of the registration and use on the lake of boats involved for the calendar year in which violation occurs, and any person convicted of a violation of any of the provisions of this article, upon conviction, shall be subject to punishment as provided by this Code.

(2) Hearings for violations of the provisions of this article shall be in the county circuit court, municipal division, and such court shall be entitled to receive complaints and issue process of violations of the provisions of this article. Duly authorized personnel of the city shall enforce all violations of this article to the office of the city attorney, who in turn, upon the information so furnished, shall initiate and prosecute such violations in the same manner as is provided by law for prosecution of other violations of this Code and other city ordinances.

(Code 1989, § 19-61; Ord. No. 11295, 6-2-1997)

Sec. 28-82. Enforcement of article.

(a) Peace officers are empowered to enforce any violation of the law on Forest Lake. Each water patrol officer may also enforce the littering law on the banks or upon public land. The peace officer may arrest on land subject to hot pursuit.

(b) Each peace officer may board any boat for the purpose of making any inspection necessary to determine compliance with boating laws.

(c) Penalties are provided for the violation of any boating laws.

(d) Motors may be impounded, if unable to determine horsepower by reasonable means, for inspection by an expert if horsepower is suspected to be over the horsepower limit established in section 28-93.

(Code 1989, § 19-62; Ord. No. 11295, § 1, 6-2-1997)

Sec. 28-83. Disorderly conduct, indecent exposure; bad behavior.

Persons who render themselves obnoxious by disorderly conduct, bad behavior or indecent exposure shall be subject to penalties prescribed

by law, and in addition thereto, or in lieu thereof, may be summarily removed from the area by a peace officer or designated representative.
(Code 1989, § 19-63; Ord. No. 11295, § 2, 6-2-1997)

Sec. 28-84. Littering.

No person shall throw or place any glass, glass bottles, cans, garbage, trash, refuse or rubbish of any kind on the navigable waters of Forest Lake or on the banks of any navigable stream or on any land or water owned, operated or leased by the city or upon public land.
(Code 1989, § 19-64; Ord. No. 11295, § 3, 6-2-1997)

Sec. 28-85. Fishing regulations.

All fishing regulations for Forest Lake are governed by the state department of conservation and their agents. Enforcement of those regulations is the responsibility of the state department of conservation.
(Code 1989, § 19-65; Ord. No. 11295, § 4, 6-2-1997)

Sec. 28-86. Swimming.

Except as hereinafter provided, swimming is permitted only in the designated swim beach area at the swimmer's risk, and is restricted to hours posted. Swimming is also permitted, at the swimmer's risk, in the no-wake area of Gil Creek Cove and the no-wake area southeast of the dam, but from watercraft and secured docks only, during daylight hours. Scuba diving is allowed on and under the waters of Forest Lake under the provisions of section 28-103.
(Code 1989, § 19-66; Ord. No. 11295, § 5, 6-2-1997; Ord. No. 12063, § 1, 6-3-2013)

Sec. 28-87. Placement of and regulations near buoys.

At the discretion of the city, warning, speed restriction and navigation buoys will be placed as needed for public safety. No-wake speed will be on the landward side of these buoys. Swimming areas and other areas restricted to boats and motors shall be marked. Such areas are designated in a drawing which is hereby made a part of this article as if fully set out herein.
(Code 1989, § 19-67; Ord. No. 11295, § 6, 6-2-1997)

Sec. 28-88. Tournaments and special events.

Any person who wishes to manage, sponsor, conduct or otherwise direct any bass tournament, fishing tournament or other special event upon the waters of Forest Lake shall complete a special events application and obtain written permission from the parks and recreation director before advertising or promoting said event.
(Code 1989, § 19-68; Ord. No. 11295, § 7, 6-2-1997; Ord. No. 11783, § 1, 1-17-2007)

Sec. 28-89. Firearms.

The possession of firearms on Forest Lake shall not be permitted at any time.
(Code 1989, § 19-69; Ord. No. 11295, § 8, 6-2-1997)

Sec. 28-90. Firecrackers or fireworks.

Firecrackers or fireworks are prohibited at all times on Forest Lake.
(Code 1989, § 19-70; Ord. No. 11295, § 9, 6-2-1997)

Sec. 28-91. City registration.

(a) All boats must be registered with the city before using Forest Lake. Annual or daily permits are purchased at the city hall, finance department.

(b) Any boat left on the lake after December 31 of any calendar year, or not registered as stated above by June 1 of each year, may be removed from Forest Lake by an appropriate city representative.

(c) The maximum length of stay for a boat on Forest Lake, excluding the docking area, will be 14 days.
(Code 1989, § 19-71; Ord. No. 11295, § 10, 6-2-1997; Ord. No. 12050, § 1, 3-18-2013; Ord. No. 12056, § 1, 5-6-2013)

Sec. 28-92. Dealer/mechanic usage fee.

The city is authorized to charge an annual dealer/mechanic usage fee. Such fee will allow the dealer/mechanic or agent to operate boats within the dealership that are for sale or boats for which the dealer/mechanic or agent is under hire for repair purposes, upon Forest Lake for no more than two hours per boat on any given day. No other registration fee required by this section will be applicable.
(Code 1989, § 19-72; Ord. No. 11295, § 11, 6-2-1997)

Sec. 28-93. Maximum horsepower.

(a) Boats equipped with a motor in excess of 90 horsepower shall be allowed to operate at idle, no-wake speeds (five miles per hour) only.

(b) Authorized city staff, when performing official duties, shall be exempt from the horsepower regulation, as well as any law enforcement, fire or rescue agency working as agents and under the direction of the city.

(c) Motorized surfboards, wetbikes and personal watercraft as defined by the state water patrol shall not be permitted on Forest Lake.
(Code 1989, § 19-73; Ord. No. 11295, § 12, 6-2-1997; Ord. No. 11393, § I, 6-14-1999; Ord. No. 12056, § 2, 5-6-2013)

Sec. 28-94. Equipment; water safety.

(a) *Equipment.*

(1) *Lights.*

a. All vessels shall display from sunset to sunrise the following lights when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

1. A bright white light aft to show all around the horizon.

2. A combined light in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points (22½ degrees) abaft the beam on the respective sides.

b. All vessels, between the hours of sunset and sunrise, that are not underway, moored at permanent dockage or attached to an immovable object on shore so that they do not extend more than 50 feet from the shore, shall display one 360 degree white light visible 360 degrees around the horizon.

(2) *Flotation devices.*

a. Every vessel shall have on board at least one wearable personal flotation device of type I, II or III for each person on board. Every such vessel shall also have on board at least one type IV throwable personal flotation device, with the exception of any boat or kayak under 16 feet in length.

b. All motorboats shall have on board at least one type I, II, III or IV personal flotation device for each person on board and each person being towed who is not wearing one.

c. All lifesaving devices required by subsections (a)(2)a and b of this section shall be United States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

d. Each person under the age of seven who is on board any watercraft which is on the waters of the state shall wear a personal flotation device which is approved by the United States Coast Guard. Any person who allows a person under the age of seven to be on board any watercraft which is on the waters of the state without wearing a personal flotation device shall be deemed guilty of an ordinance violation. This subsection does not apply when the person under the age of seven is in a part of a watercraft which is fully

enclosed, where such enclosure will prevent such person from falling out of or being thrown from the watercraft.

(3) *Ventilation system.* Every vessel which is carrying or using inflammable or toxic fluid in any enclosure for any purpose, and which is not an entirely open vessel, shall have an efficient natural or mechanical ventilation system which must be capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

(4) *Fire extinguishers.* Motorboats shall carry on board at least the following United States Coast Guard approved fire extinguishers: every motorboat with an enclosed gasoline storage tank, a gasoline tank with a capacity of at least 12 gallons or a permanently installed gasoline tank, one B1 type fire extinguisher.

(5) *Sounding device.* All motorboats shall have a sounding device.

(6) *Operation without required equipment prohibited.* No person shall operate any watercraft which is not equipped as required by this section or as otherwise required by state statute.

(b) *Water safety regulations.*

(1) Any vessel towing water skiers or surfboarders must have an observer in the vessel in addition to the driver or must be equipped with an approved ski mirror.

(2) No waterskiing or surfboarding shall be permitted after sunset or before sunrise.

(3) Sailboats shall have the right-of-way over all other craft. However, no craft shall be operated in such a manner as to endanger or inconvenience smaller or less maneuverable craft.

(4) United States Coast Guard approved life jackets, life preservers, or ski vests must be worn by all skiers and surfboarders.

(5) Launching, docking, mooring, and landing shall be accomplished only in such places and by such means that are approved by the city.

(6) The operator of a motorboat shall not allow any person to ride or sit on the gunwales, decking over the bow, railing, top of seat back or decking over the back of the motorboat while under way, unless such person is inboard of adequate guards or railing provided on the motorboat to prevent a passenger from being lost overboard. As used in this subsection, the term "adequate guards or railing" means guards or railings having a height parameter of at least six inches, but not more than 18 inches. Nothing in this subsection shall be construed to mean that passengers or other persons aboard a motorboat cannot occupy the decking over the bow of the boat to moor it to a mooring buoy or to cast off from such a buoy, or for any other necessary purpose. The provisions of this subsection shall not apply to vessels propelled by sail.

(7) Whenever any person leaves any watercraft, other than a personal watercraft, on the waters of the state and enters the water between the hours of 11:00 a.m. and sunset, the operator of such watercraft shall display on the watercraft a red or orange flag measuring not less than 12 inches by 12 inches. The provisions of this subsection shall not apply to watercraft that is moored or anchored. The flag required by this subsection shall be visible for 360 degrees around the horizon when displayed and shall be displayed only when an occupant of the watercraft has left the confines of the watercraft and entered the water. The flag required by this subsection shall not be displayed when the watercraft is engaged in towing any person, but shall be displayed when such person has ceased being towed and has reentered the water.

(8) No operator shall knowingly operate any watercraft within 50 yards of a flag

required by subsection (b)(7) of this section at a speed in excess of slow-no wake speed.

(c) *Enforcement.*

(1) A police officer, or designee, may direct the operator of any watercraft being operated without sufficient personal flotation devices, firefighting devices or in an overload or otherwise unsafe condition or manner to take whatever immediate and reasonable steps are necessary for the safety of those aboard when, in the judgement of the officer, such operation creates a hazardous condition. The officer may direct the operator to return the watercraft to the nearest safe mooring and to remain there until the situation creating the hazardous condition is corrected.

(2) A police officer, or designee, may remove any unmanned or unattended watercraft from the water.

(Code 1989, § 19-74; Ord. No. 11295, § 13, 6-2-1997; Ord. No. 11377, § 1, 3-15-1999)

Sec. 28-95. Muffling devices.

It shall be unlawful for any person to use a boat propelled in whole or in part by gas, gasoline or naphtha unless the same is provided with a stock factory muffler, underwater exhaust or other modern devices capable of adequately muffling the sound of the exhaust of the engine. The term "adequately muffling" means that the motor's exhaust will at all times be so muffled or suppressed as not to create excessive noise.
(Code 1989, § 19-75; Ord. No. 11295, § 14, 6-2-1997)

Sec. 28-96. Operation and speed of motorboats.

(a) Every operator of a boat shall at all times navigate the same in a careful and prudent manner, and at such a rate of speed as not to endanger the life, limb or property of any person.

(b) No person shall operate any motorboat at a rate of speed greater than will permit the operator in the exercise of reasonable care to bring the motorboat to a stop within the ensured clear distance ahead.
(Code 1989, § 19-76; Ord. No. 11295, § 15, 6-2-1997)

Sec. 28-97. Age limit for operators.

(a) No person under 14 years of age shall operate any motorboat upon the waters of this lake unless such person is under the direct (on board) visual and audible supervision of a parent, guardian or other person 16 years of age or older, or unless the motorboat is moored. Parents and guardians are responsible for the actions of underage operators.

(b) All persons operating a motorboat must follow all state highway patrol boating regulations.
(Code 1989, § 19-77; Ord. No. 11295, § 16, 6-2-1997; Ord. No. 11377, § 2, 3-15-1999)

Sec. 28-98. Controlling boats while intoxicated.

It shall be unlawful for any person who is under the influence of intoxicating liquor or narcotic drugs or sedatives to operate, propel or be in actual physical control of any boat.
(Code 1989, § 19-78; Ord. No. 11295, § 17, 6-2-1997)

Sec. 28-99. Tampering with boats or motors.

(a) No person shall operate, use or tamper with any boat or outboard motor affixed to a boat without the permission of the owner thereof.

(b) Any person who violates the provisions of this section shall be deemed guilty of an ordinance violation and, upon conviction thereof, shall be punished as provided by law.

(c) If the value is over $150.00 the charge may be a felony.
(Code 1989, § 19-79; Ord. No. 11295, § 18, 6-2-1997)

Sec. 28-100. Marine sewage disposal.

All marine toilets on any boat operated upon waters of Forest Lake shall be constructed and operated as to contain all sewage aboard the boat and not to discharge any sewage into the waters directly or indirectly. No boat shall be equipped to permit discharge from or through any marine toilet, or in any other manner, any sewage at any time into waters of Forest Lake, and all sewage when removed from any boat shall immediately be placed in the sanitary dump tank. It is also illegal to allow any gray water to be discharged into the waters of Forest Lake. Gray water is defined as shower, bath, dishwater or water tainted with a cleaning solution.
(Code 1989, § 19-80; Ord. No. 11295, § 19, 6-2-1997)

Sec. 28-101. Maximum boat length and width.

The maximum length of watercraft allowed on Forest Lake shall be 33 feet. The maximum width shall be nine feet.
(Code 1989, § 19-81; Ord. No. 11295, § 20, 6-2-1997)

Sec. 28-102. Water emergencies.

Should an emergency arise that would impair the present water quality standards of the water supply of Forest Lake, the city manager or the public works director of the city will have the authority to declare a state of emergency and will notify the state department of conservation, state department of natural resources, water quality division, and the police chief. All boating and recreation on Forest Lake shall cease until such time as the emergency situation is corrected and, if appropriate, until approved by the state department of natural resources.
(Code 1989, § 19-82; Ord. No. 11295, § 21, 6-2-1997)

Sec. 28-103. Scuba diving flag regulations.

(a) All diving shall be within a 50-yard radius of an appropriate diver-down flag. The flag shall be red with white stripes, and at least 16 inches by 12 inches.

(b) No boat operator shall knowingly operate within 50 yards of the flag.

(c) If the flag is displayed on a buoyant device, its top shall be a minimum of three feet above the water. If displayed on a boat or raft, the flag shall be visible at a 360 degree angle.

(d) The flag shall be exhibited only during diving operations.

(e) Diving operations shall not impede the normal flow of motorboat traffic.

(f) Any violation of this regulation will constitute an ordinance violation.
(Code 1989, § 19-83; Ord. No. 11295, § 22, 6-2-1997)

Sec. 28-104. Trespass on dam and spillway.

It shall be unlawful for any person, other than authorized city staff, other law enforcement agencies, fire or rescue agencies working as agents and while performing official duties under the direction of the city, or an agent of the state department of conservation, to enter or remain upon the Forest Lake Dam or spillway.
(Code 1989, § 19-84; Ord. No. 11295, § 23, 6-2-1997)

Sec. 28-105. Inspections of boats, refusal of or interference with.

Any person who refuses or interferes with the inspection of any boat or vessel located on the waters of the state, when such inspection is conducted for the purpose of determining compliance with the provisions of this chapter, shall be guilty of an ordinance violation.
(Code 1989, § 19-85; Ord. No. 11377, § 3, 3-15-1999)

Sec. 28-106. Barrier-free fishing dock.

Fish cleaning, docking of water craft, sunbathing, and using the barrier-free fishing dock as a base for water skiers is prohibited.
(Code 1989, § 19-87; Ord. No. 11572, § 1, 6-3-2002)

Secs. 28-107—28-125. Reserved.

ARTICLE III. HAZEL CREEK LAKE

Sec. 28-126. Adoption and enforcement of state statutes.

The city hereby adopts and agrees to enforce, with noted exceptions, all boating and equipment regulations as defined by the revised statutes of the state on Hazel Creek Lake.

(1) Any person violating any rule or regulation adopted by the city shall be subject to prosecution under the provision of this Code and other laws of the city and state, provided that boating violations may, at the discretion of the city, result in cancellation of the registration and use on the lake of boats involved for the calendar year in which violation occurs, and any person convicted of a violation of any of the provisions of this article, upon conviction, shall be subject to punishment as provided in this Code.

(2) Hearings for violations of the provisions of this article shall be in the circuit court of the county and such court shall be entitled to receive complaints and issue process of violations of the provisions of this article. Duly authorized personnel of the city shall enforce all violations of this article to the office of the city attorney, who in turn, upon the information so furnished, shall initiate and prosecute such violations in the same manner as is provided by law for prosecution of other violations of this Code and other city ordinances.

(Code 1989, § 19-101; Ord. No. 11295, 6-2-1997)

Sec. 28-127. Enforcement of article.

(a) Peace officers are empowered to enforce any violation of the law on Hazel Creek Lake. Each peace officer may also enforce the littering law on the banks or upon public land. The peace officer may arrest on land subject to hot pursuit.

(b) Each peace officer may board any boat for the purpose of making any inspection necessary to determine compliance with boating laws.

(c) Penalties are provided for the violation of any boating laws.

(Code 1989, § 19-102; Ord. No. 11295, § 24, 6-2-1997)

Sec. 28-128. Fishing regulations.

All fishing regulations for Hazel Creek Lake are governed by the state department of conservation and their agents. Enforcement of those regulations is the responsibility of the state department of conservation.

(Code 1989, § 19-103; Ord. No. 11295, § 25, 6-2-1997)

Sec. 28-129. Tournaments and special events.

Any person who wishes to manage, sponsor, conduct or otherwise direct any bass tournament, fishing tournament or special event upon the waters of Hazel Creek Lake shall complete a special events application and obtain written permission from the parks and recreation director before advertising or promoting said event.

(Code 1989, § 19-104; Ord. No. 11295, § 26, 6-2-1997; Ord. No. 11783, § 1, 1-17-2007)

Sec. 28-130. Disorderly conduct, indecent exposure, bad behavior.

Persons who render themselves obnoxious by disorderly conduct, bad behavior or indecent exposure shall be subject to penalties prescribed by law, and in addition thereto, or in lieu thereof, may be summarily removed from the area by a peace officer or designated representative.

(Code 1989, § 19-105; Ord. No. 11295, § 26, 6-2-1997)

Sec. 28-131. Littering.

No person shall throw or place any glass, glass bottles, cans, garbage, trash, refuse or rubbish of any kind on the navigable waters of Hazel Creek Lake or on the banks of any navigable stream or on any land or water owned, operated or leased by the city or upon public land.

(Code 1989, § 19-106; Ord. No. 11295, § 27, 6-2-1997)

Sec. 28-132. Firecrackers or fireworks.

Firecrackers or fireworks are prohibited at all times on the waters of Hazel Creek Lake, and the property surrounding Hazel Creek Lake.
(Code 1989, § 19-107; Ord. No. 11295, § 28, 6-2-1997)

Sec. 28-133. Controlling boats while intoxicated.

It shall be unlawful for any person who is under the influence of intoxicating liquor or narcotic drugs or sedatives to operate, propel or be in actual physical control of any boat on Hazel Creek Lake.
(Code 1989, § 19-108; Ord. No. 11295, § 29, 6-2-1997)

Sec. 28-134. Age limit for operators.

(a) No person under 14 years of age shall operate any motorboat upon the waters of Hazel Creek Lake unless such person is under the direct (on board) visual and audible supervision of a parent, guardian or other person 16 years of age or older, or unless the motorboat is moored. Parents and guardians are responsible for the actions of underage operators.

(b) All persons operating a motorboat must follow all state highway patrol boating regulations.
(Code 1989, § 19-109; Ord. No. 11295, § 30, 6-2-1997; Ord. No. 11377, § 4, 3-15-1999)

Sec. 28-135. Tampering with boats or motors.

(a) No person shall operate, use or tamper with any boat or outboard motor affixed to a boat without the permission of the owner thereof.

(b) Any person who violates the provisions of this section shall be deemed guilty of an ordinance violation and, upon conviction thereof, shall be punished as provided by law.
(Code 1989, § 19-110; Ord. No. 11295, § 31, 6-2-1997)

Sec. 28-136. Marine sewage disposal.

All marine toilets on any boat operated upon waters of Hazel Creek Lake shall be constructed and operated as to contain all sewage aboard the boat and not to discharge any sewage into the waters directly or indirectly. No boat shall be equipped to permit discharge from or through any marine toilet, or in any other manner, any sewage at any time into waters of Hazel Creek Lake, and all sewage when removed from any boat shall immediately be placed in the sanitary dump tank. It is also illegal to allow any gray water to be discharged into the waters of Hazel Creek Lake. Gray water is defined as shower, bath, dishwater or water tainted with a cleaning solution.
(Code 1989, § 19-111; Ord. No. 11295, § 32, 6-2-1997)

Sec. 28-137. Maximum boat length and width.

The maximum length of watercraft allowed on Hazel Creek Lake shall be 33 feet. The maximum width shall be nine feet.
(Code 1989, § 19-112; Ord. No. 11295, § 33, 6-2-1997)

Sec. 28-138. Swimming.

Swimming is not permitted in Hazel Creek Lake.
(Code 1989, § 19-113; Ord. No. 11295, § 34, 6-2-1997)

Sec. 28-139. Scuba diving.

Scuba diving, snorkeling, or any other such activity shall be prohibited; however, this section shall not apply to members of the city police department or the city fire department or any agency acting directly under their control performing any official function, to include rescue, investigation, training or maintenance.
(Code 1989, § 19-114; Ord. No. 11295, § 35, 6-2-1997)

Sec. 28-140. Fishing and frogging.

Fish may be taken from the waters of Hazel Creek Lake subject to the limits and methods of

the state department of conservation wildlife code. No trotline, jug, block line, limb lines, seining, snaring, or snagging will be permitted at any time. Upon the recommendation of the state department of conservation, special size limits may be imposed from time to time by the city.
(Code 1989, § 19-115; Ord. No. 11295, § 36, 6-2-1997)

Sec. 28-141. Firearms.

Only shotguns, muzzle loaders and archery equipment may be used for hunting in or upon Hazel Creek Lake or the surrounding lands owned or leased by the city. The possession or use of other types of firearms on Hazel Creek Lake or on adjacent city owned land shall be prohibited.
(Code 1989, § 19-116; Ord. No. 11295, § 37, 6-2-1997)

Sec. 28-142. Storage of private property; water fowl blinds.

It shall be unlawful for any person to store private property upon Hazel Creek Lake or the lands owned or leased by the city surrounding Hazel Creek Lake, except that waterfowl blinds and items such as decoys, etc., are permissible. Waterfowl blinds may be constructed, or stored in place, from 7:00 a.m. on the second Saturday of August through 5:00 p.m. on the last Saturday of April each year. Blinds, and associated items that are not removed by 5:00 p.m. on the last Saturday of April, may be removed and/or destroyed by the city. Blinds must be labeled with the owner's full name, address and phone number. Blinds may not be placed within 300 yards of each other. Floating blinds are prohibited, except those with at least half the vessel on shore. Waterfowl decoys may be placed on the waters of Hazel Creek Lake seven days prior to the waterfowl hunting season, and must be removed within seven days after the close of the waterfowl hunting season. A small boat used exclusively for the retrieval of game or placement of decoys may be left at the blind area during this period; however, when not in use, it shall be covered as to blend into the environment. The city reserves the right to regulate the placement or removal of any waterfowl blind, waterfowl decoys, or watercraft on properties owned or leased by the city. The lakes, parks and recreation commission shall be the advisory committee to the city manager in reference to complaints regarding unsightly or unmaintained blinds. Hunters may retrieve waterfowl on all shores of Hazel Creek Lake.
(Code 1989, § 19-117; Ord. No. 11295, § 38, 6-2-1997; Ord. No. 11983, § 3, 12-5-2011; Ord. No. 12210, § I, 7-18-2016)

Sec. 28-143. Boats, vessels and watercraft.

Gasoline-powered boats, vessels and watercraft are prohibited on Hazel Creek Lake. Electric trolling motors shall be the only machinery used to propel boats, vessels or watercraft on the lake. Boats, vessels and watercraft propelled by sail alone are permitted on Hazel Creek Lake. Any boat, vessel or watercraft utilizing the waters of Hazel Creek Lake shall be in conformance with the state watercraft regulations; provided, however, that this section shall not apply to authorized city staff, state department of conservation or any agency acting directly under their control performing an official function, to include rescue, investigation, training or maintenance.
(Code 1989, § 19-118; Ord. No. 11295, § 39, 6-2-1997)

Sec. 28-144. Equipment; water safety.

(a) *Equipment.*

(1) *Lights.*

a. All vessels shall display from sunset to sunrise the following lights when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

1. A bright white light aft to show all around the horizon.

2. A combined light in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the

light from right ahead to two points (22½ degrees) abaft the beam on the respective sides.

b. All vessels, between the hours of sunset and sunrise, that are not underway, moored at permanent dockage or attached to an immovable object on shore so that they do not extend more than 50 feet from the shore, shall display one 360 degree while light visible 360 degrees around the horizon.

(2) *Flotation devices.*

a. Every vessel shall have on board at least one wearable personal flotation device of type I, II or III for each person on board. Every such vessel shall also have on board at least one type IV throwable personal flotation device, with the exception of any boat or kayak under 16 feet in length.

b. All lifesaving devices required by subsections (a)(2)a of this section shall be United States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

c. Each person under the age of seven who is on board any watercraft which is on the waters of the state shall wear a personal flotation device which is approved by the United States Coast Guard. Any person who allows a person under the age of seven to be on board any watercraft which is on the waters of the state without wearing a personal flotation device shall be deemed guilty of an ordinance violation. This subsection does not apply when the person under the age of seven is in a part of a watercraft which is fully enclosed, where such enclosure will prevent such person from falling out of or being thrown from the watercraft.

(3) *Ventilation system.* Every vessel which is carrying or using inflammable or toxic fluid in any enclosure for any purpose, and which is not an entirely open vessel, shall have an efficient natural or mechanical ventilation system which must be capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

(4) *Fire extinguishers.* Motorboats shall carry on board at least the following United States Coast Guard approved fire extinguishers: every motorboat with an enclosed gasoline storage tank, a gasoline tank with a capacity of at least 12 gallons or a permanently installed gasoline tank, one B1 type fire extinguisher.

(5) *Sounding device.* All motorboats shall have a sounding device.

(6) *Operation without required equipment prohibited.* No person shall operate any watercraft which is not equipped as required by this section.

(b) Water safety regulations.

(1) Launching, docking, mooring, and landing shall be accomplished only in such places and by such means that are approved by the city.

(2) The operator of a motorboat shall not allow any person to ride or sit on the gunwales, or decking over the bow, railing, top of seat back or decking over the back of the motorboat while under way, unless such person is inboard of adequate guards or railing provided on the motorboat to prevent a passenger from being lost overboard. As used in this subsection, the term "adequate guards or railing" means guards or railings having a height parameter of at least six inches but not more than 18 inches. Nothing in this subsection shall be construed to mean that passengers or other persons aboard a motorboat cannot occupy the decking over the bow of the boat to moor it to a mooring buoy or to cast off from such a buoy, or for any other necessary

purpose. The provisions of this subsection shall not apply to vessels propelled by sail.

(3) Whenever any person leaves any watercraft, other than a personal watercraft, on the waters of the state between the hours of 11:00 a.m. and sunset, the operator of such watercraft shall display on the watercraft a red or orange flag measuring not less than 12 inches by 12 inches. The provisions of this subsection shall not apply to watercraft that is moored or anchored. The flag required by this subsection shall be visible for 360 degrees around the horizon when displayed and shall be displayed only when an occupant of the watercraft has left the confines of the watercraft and entered the water. The flag required by this subsection shall not be displayed when the watercraft is engaged in towing any person, but shall be displayed when such person has ceased being towed and has reentered the water.

(4) No operator shall knowingly operate any watercraft within 50 yards of a flag required by subsection (b)(3) of this section at a speed in excess of a slow-no wake speed.

(c) *Enforcement.*

(1) A city peace officer may direct the operator of any watercraft being operated without sufficient personal flotation devices, firefighting devices or in an overloaded or otherwise unsafe condition or manner to take whatever immediate and reasonable steps are necessary for the safety of those aboard when, in the judgement of the officer, such operation creates a hazardous condition. The officer may direct the operator to return the watercraft to the nearest safe mooring and to remain there until the situation creating the hazardous condition is corrected.

(2) Removal of unmanned watercraft. A city peace officer may remove any unmanned or unattended watercraft from the water when, in the judgement of the officer, the watercraft creates a hazardous condition.

(Code 1989, § 19-119; Ord. No. 11377, § 5, 3-15-1999)

Sec. 28-145. Water emergencies.

Should a state of emergency arise that would impair the present water quality standards of the water supply at Hazel Creek Lake, the city manager or the public works director of the city will have the authority to declare a state of emergency and will notify the state department of conservation, state department of natural resources, water quality division, and the police chief. All boating and recreation on Hazel Creek Lake shall cease until such time as the emergency situation is corrected and, if appropriate, until approved by the state department of natural resources.

(Code 1989, § 19-120; Ord. No. 11295, § 41, 6-2-1997)

Sec. 28-146. Grazing animals, mineral exploration prohibited.

(a) It shall be unlawful for any person to allow any animal to graze upon lands owned or leased by the city surrounding Hazel Creek Lake. Each animal found to be grazing on the lands shall constitute a separate violation and the owner of the animal shall be charged accordingly.

(b) It shall be unlawful for any person to drill, dig, or in any way explore for any minerals upon the land owned or leased by the city surrounding Hazel Creek Lake.

(Code 1989, § 19-121; Ord. No. 11295, § 42, 6-2-1997)

Sec. 28-147. Gates on adjoining property.

Owners of property, or their designees, that adjoin to the land surrounding Hazel Creek Lake which is owned or leased by the city may, upon approval by the public works director, install a gate in the city fence line. The gate shall remain secured, except when in use. The gate shall be used exclusively for access to Hazel Creek by the property owner, immediate family or guests. The

property owner allowing access will be held responsible for all damages to city property caused by them, their immediate family, and/or any guest of said property owner.
(Code 1989, § 19-122; Ord. No. 11295, § 44, 6-2-1997)

Sec. 28-148. Vehicles.

Vehicles are prohibited on the lands surrounding Hazel Creek Lake except on roadways designed and designated for usage by vehicles, except that the city or its authorized agents may use vehicles on any lands for the necessary upkeep, maintenance, enforcement or protection of the public.
(Code 1989, § 19-123; Ord. No. 11295, § 45, 6-2-1997)

Sec. 28-149. Camping.

Camping is prohibited on any off-road property surrounding Hazel Creek Lake. In accordance with state department of natural resources definitions, any overnight parking on gravel or paved roads or parking areas is considered camping and is prohibited.
(Code 1989, § 19-124; Ord. No. 11295, § 46, 6-2-1997)

Sec. 28-150. Permanent mooring or docking of boats.

Permanent mooring or docking of boats on Hazel Creek Lake is prohibited. Permanent mooring or docking is a period over 72 hours in duration, except as exempted for water fowl hunting.
(Code 1989, § 19-125; Ord. No. 11295, § 47, 6-2-1997)

Sec. 28-151. Cutting of vegetation.

Cutting or removal of any tree, bush, shrub or woody vegetation is prohibited except where specifically authorized by the parks and recreation director in or upon Hazel Creek Lake. Additionally, the cutting or removal of any vegetation to perform maintenance on the lake or the surrounding lands owned or leased by the city must be approved by the parks and recreation director or the public works director.
(Code 1989, § 19-126; Ord. No. 11295, § 48, 6-2-1997)

Sec. 28-152. Trespass on dam.

It shall be unlawful for any person, other than an employee or agent of the state department of conservation, to enter or remain upon the Hazel Creek Lake Dam.
(Code 1989, § 19-127; Ord. No. 11295, § 49, 6-2-1997)

Sec. 28-153. Inspections of boats, refusal of or interference with; penalty.

Any person who refuses or interferes with the inspections of any boat or vessel located upon the waters of the state, when such inspection is conducted for the purpose of determining compliance with the provisions of this article, shall be guilty of an ordinance violation.
(Code 1989, § 19-129; Ord. No. 11377, § 6, 3-15-1999)

Secs. 28-154—28-174. Reserved.

ARTICLE IV. DOG PARK

Sec. 28-175. Designation.

The McKinney Bark Park dog park is designated for off-leash dogs. Dog owners/handlers are personally and legally responsible for their dogs, including bites inflicted upon humans by their dog. They will assume inherent risks by using this facility, including, but not limited to, serious personal injury and property damage. Handlers must remain inside the fenced area and in view of their dog and maintain verbal control of their dog at all times.
(Code 1989, ch. 19, art. V(intro. ¶); Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-176. Enforcement.

The parks and recreation director and city police shall, in connection with their official

duties, diligently enforce the provisions of this article. Any dog bite inflicted upon a human shall be reported to the city police department.
(Code 1989, § 19-136; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-177. Liability.

Handlers waive liability to the city for any injury or damage caused by their dog at any time while on the dog park property.
(Code 1989, § 19-137; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-178. Park hours.

The dog park shall be open daily from 5:00 a.m. to 11:00 p.m. No person or animal shall enter or remain on any dog park property outside of these hours unless given permission by the parks and recreation director. An exception may be during an announced special event that would indicate different hours.
(Code 1989, § 19-138; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-179. Inoculations.

Every dog must have a current rabies vaccination tag on its collar, and the collar must be on the dog. All dogs must be current in their inoculations and free from contagious conditions, diseases or parasites.
(Code 1989, § 19-139; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-180. Leash.

Handlers must have each dog on a leash when entering and before leaving the fenced areas. Dogs may be off-leash only within the fenced areas, except restricted animals as defined in section 8-41.
(Code 1989, § 19-140; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-181. Restricted animal.

A restricted animal, as defined in section 8-41, must remain restrained on a four-foot leash when other dogs are present. All other restrictions as defined in section 8-41 are to be adhered to.
(Code 1989, § 19-141; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-182. Vicious dogs.

Vicious dogs are not permitted in the dog park. The handler of any dog exhibiting this behavior is required to remove the offending dog immediately at the first sign of aggression. A vicious animal is defined in chapter 8.
(Code 1989, § 19-142; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-183. Female restriction.

Female dogs in season are not allowed.
(Code 1989, § 19-143; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-184. Animal waste.

Handlers are responsible to clean up after their dogs by picking up their dog's waste and disposing of it properly inside and outside of the fenced area. Reference section 8-17.
(Code 1989, § 19-144; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-185. Dog accompaniment.

For every two dogs brought into the park, at least one handler age 17 or older must be in attendance and in control of said dogs.
(Code 1989, § 19-145; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-186. Visitor age limit.

Persons under the age of 17 years must be accompanied by an adult inside the fenced area.
(Code 1989, § 19-146; Ord. No. 12120, § 1, 8-4-2014)

Sec. 28-187. Fees and penalties.

(a) Penalties shall be in accordance with section 1-8.

(b) In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.
(Code 1989, § 19-148; Ord. No. 12120, § 1, 8-4-2014)

Chapter 29

RESERVED

Chapter 30

SOLID WASTE

Article I. In General

Secs. 30-1—30-18. Reserved.

Article II. Collection, Transportation and Disposal Services

ARTICLE I. IN GENERAL

Secs. 30-1—30-18. Reserved.

ARTICLE II. COLLECTION, TRANSPORTATION AND DISPOSAL SERVICES

Sec. 30-19. 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:

Bags mean plastic sacks, transparent, used for collection of excess recyclable materials, or brown paper sacks, used for collection of yard wastes, with sufficient wall strength to maintain physical integrity when lifted by top, securely tied at the top for collection.

Bulky rubbish means nonputrescible solid wastes consisting of combustible and/or noncombustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be loaded in solid waste collection vehicles with safety and convenience by solid waste collectors, with the equipment available therefor.

Bundle means newspapers and magazines securely tied together forming an easily handled package not exceeding 40 pounds in weight.

City means the City of Kirksville, Missouri, empowered under state law to solicit and award contracts for the collection of refuse and solid waste. The term "city" also refers to the appropriate employee or office of the city authorized to act as its agent in handling pertinent matters of the contract.

Commercial account means any commercial, industrial, institutional or agricultural establishment including institutional housing and other commercially oriented residential establishments including fraternities, sororities and housing facilities with five or more dwelling units under one roof.

Containers.

Nonreusable containers. See *Bags.*

Tote containers means contractor-supplied recyclable containers or waste receptacles made of plastic, with a minimum capacity of 64 gallons, provided by the contractor, on two wheels, with a tight fitting attached lid, with adequate strength for lifting via a mechanical device.

Contractor means the individual, firm, partnership, joint venture, corporation, or association performing refuse solid waste/recyclable material collection and disposal under contract with the city.

Demolition and construction waste means waste materials from the construction or destruction of residential, industrial or commercial structures.

Disposal site means a refuse depository for the processing or final disposal of refuse, including, but not limited to, sanitary landfills, transfer stations, incinerators, composting sites, recycling centers and waste processing separation centers, licensed, permitted or approved by all governmental bodies and agencies having jurisdiction.

Dwelling unit means any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

Garbage means putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food and including food containers.

Hazardous waste means waste designated as hazardous by the United States Environmental Protection Agency or appropriate state agency.

Nonresidential commercial account means any commercial, industrial, institutional, or agricultural establishment, excluding residential commercial accounts.

Occupant means any person who, alone or jointly or severally with others, shall be in actual

possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

Recyclable materials means all types of metal containers, clean No. 1 and 2 plastics, milk jugs, plastic grocery bags, newsprint, magazines, mixed paper, corrugated cardboard, paper board and computer paper.

Recyclable materials container means transparent plastic bags (or other plastic bags which permit the contents of the bag to be visible) designed with sufficient wall strength to maintain physical integrity when lifted by top; securely tied at the top for collection. Cardboard boxes shall also be defined as a recyclable material container. See *Bags* or *containers*.

Recycling business means a depository for the processing/sorting of recyclable materials.

Refuse means discarded waste materials in a solid or semiliquid state, consisting of garbage, rubbish or a combination thereof.

Residential account means an account containing less than five dwelling units under one roof, including mobile homes/trailers, and not used for commercial purposes.

Residential commercial account means an account that has five or more independent dwelling units under one roof.

Rubbish means nonputrescible solid wastes consisting of combustible and noncombustible materials.

Solid waste means unwanted or discarded waste materials in a solid or semisolid state, including, but not limited to, garbage, ashes, street refuse, rubbish, dead animals, animal and agricultural wastes, discarded appliances, special wastes, industrial wastes, and demolition and construction wastes.

Yard waste means leaves, twigs, grass clippings and limbs four feet or under in length, two inches or less in diameter, and bundled, packed loosely in a maximum 33-gallon can, or placed in brown kraft paper bags. Plastic bags, whether biodegradable or not, are not accepted for the disposal of yard waste.
(Code 1989, § 11-51; Ord. No. 11551, § 1, 2-18-2002; Ord. No. 11916, § 3, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-20. Types of accounts.

Accounts as defined in section 30-19 are enumerated below:

(1) Residential account is an account that contains less than five dwelling units under one roof, including mobile homes/trailers, and not used for commercial purposes.

(2) Residential commercial account is an account that has five or more dwelling units under one roof, including a fraternity or sorority.

(3) Nonresidential commercial account is any commercial, industrial, institutional or agricultural establishment, excluding residential commercial accounts.

(4) Commercial account is any commercial, industrial, institutional or agricultural establishment including institutional housing and other commercially oriented residential establishments including fraternities, sororities and housing facilities with five or more dwelling units under one roof.

(Code 1989, § 11-56; Ord. No. 11551, § 6, 2-18-2002)

Sec. 30-21. Account regulation.

Accounts shall be regulated under the terms of the contract as follows:

(1) Residential accounts shall be served only by the city-approved contractor.

(2) Residential commercial accounts shall be free to contract with other licensed residential haulers holding current licenses with the city.

(3) Nonresidential commercial accounts shall be free to contract with any licensed

hauler holding a current license, except as provided in subsection (6) of this section.

(4) The rates charged by contractors for commercial account services shall not be regulated under the terms of the contract.

(5) If any account shall fail to dispose of its solid waste and refuse properly, and upon creation of a health, odor or litter problem, and upon conviction thereof, then the city shall have the right to designate the contractor and the owner shall pay an appropriate charge for the service.

(6) Nothing herein contained shall be construed to limit or restrain the city from separately contracting with recycling or trash disposal vendors for handling of residential commercial and nonresidential commercial accounts.

(7) The city will remit the monthly contract fee to the hauler for each month for every residential unit covered by the contract with an active water meter in service for at least half the month, less the cost of accounts that are written off due to non-collection and less the amount of the franchise fee. If the written off accounts are collected at a later time, they will be added back in to the contractor's payment amount, less the cost of the collection fees. The contractor will not receive payment for any residential unit that has been in service less than half the month. The city will not charge an administrative fee to the contractor for billing and collection, other than the franchise fees stipulated by the contract. The city will provide a monthly list of service addresses when submitting payment and provide payments to the contractor within 30 days after the original due date for the billing.

(Code 1989, § 11-57; Ord. No. 11551, § 7, 2-18-2002; Ord. No. 11839, § 1, 6-16-2008; Ord. No. 11916, § 5, 3-15-2010)

Sec. 30-22. Refuse collection containers.

(a) Residential accounts shall use the tote container, provided by the contractor, as defined herein. Residential accounts have the option of obtaining an additional 65-gallon tote container from the contractor for an additional monthly fee, billed quarterly by and payable to the contractor, for the disposal of larger amounts of trash. The owners of three- and four-unit residential structures may make alternate container arrangements if the city agrees in writing, if provision is made for recycling collection, and if the monthly per unit price remains unchanged. All containers furnished by the contractor for use by residents shall, while in the possession and control of the resident, remain the property of the contractor and neither the resident nor the city shall have any ownership rights to such containers. Residents shall use the containers only for the purposes for which it is intended and shall not make any alterations or improvements to the containers. Residents shall be responsible for loss or damage to the containers in excess of ordinary wear and tear. In the event a resident requests more than one container or a replacement container due to theft or damage beyond ordinary wear and tear, the contractor shall provide additional containers and charge the resident directly for the cost of the container and delivery thereof.

(b) Residential commercial accounts shall have the option of using bags, reusable containers, containers of one yard or larger size metal or plastic containers with tight fitting lids.

(c) No occupant shall place more solid waste in a container so that the lid cannot be closed; provided, however, that where there is a problem locating a container as determined by the contractor and the city, then an exception on the requirement of the container may be granted by the city in writing to the owner. Fifty-five gallon drums are expressly prohibited.

(d) Nonresidential commercial accounts shall use a bag, reusable container or one yard or larger size metal or plastic container with tight fitting lids. No occupant shall place more solid waste in a container so that the lid cannot be closed. Fifty-five gallon drums are expressly prohibited.

(e) The contractor shall be responsible for the maintenance of all containers owned by the contractor. This includes the proper operation of handles, lids, axles, wheels, etc. The contractor's

name shall appear on the side of all containers. Lids shall be tight fitting and in working order. It shall be the responsibility of the contractor to maintain the containers. The platform or pad shall be maintained by the account owner, except for the requirement that all strewn materials and litter in the immediate area shall be cleaned up by the contractor. The contractor will be responsible for cleanup of material if, in the performance of servicing the container, the contractor causes materials and litter to strew.

(f) The customer (resident of the city) who has possession of the tote container is responsible for the cleaning of the tote so it does not smell or present possible health problems for the public or the contractor's employees.

(g) It is recommended that contents placed in the trash tote container be bagged to help prevent the container from becoming dirty and offensive.

(h) It shall be unlawful for any person to place solid waste in any solid waste container, other than their own, without the consent of the owner of such container. Any person violating the terms of this provision may be prosecuted for an ordinance violation.
(Code 1989, § 11-58; Ord. No. 11551, § 8, 2-18-2002; Ord. No. 11908, § 1, 1-4-2010; Ord. No. 11916, § 6, 3-15-2010)

Sec. 30-23. Refuse collection frequency.

(a) The contractor shall provide once weekly solid waste (trash) collection for all residential accounts.

(b) Residential commercial accounts shall be picked up a minimum of once a week, unless a higher frequency is required by the occupant/owner or the city. For health reasons or violations of city ordinances, the city can order the frequency of the collection increased above the minimum or the size of the container increased for commercial accounts, if the city so determines. If so ordered by the city, the occupant or owner shall pay an appropriate monthly charge.

(c) Nonresidential commercial accounts shall be picked up a minimum of once a week, unless a higher frequency is required by the occupant/owner or the city. For health reasons or violations of city ordinances, the city can order the frequency of the collection increased above the minimum or the size of the container increased, for commercial accounts, if the city so determines. If so ordered by the city, the occupant or owner shall pay an appropriate monthly charge.
(Code 1989, § 11-59; Ord. No. 11551, § 9, 2-18-2002)

Sec. 30-24. Residential refuse collection quantity.

(a) Solid waste (trash) to be picked up at residential accounts shall consist of ordinary household waste only. Other arrangements with the hauler are not price regulated by the contract.

(b) Residential accounts may place one tote container provided by the contractor with a weight limit of no more than 200 pounds by the curb for pickup. An additional 65-gallon tote provided by the contractor with the same weight restriction of no more than 200 pounds will be collected if the tote has been issued by the contractor.
(Code 1989, § 11-60; Ord. No. 11551, § 10, 2-18-2002; Ord. No. 11916, § 7, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-25. Recyclable material collection containers.

(a) Residential accounts shall use one tote container provided by the contractor for the collection of recycled materials.

(b) Recycling for commercial accounts is not regulated by the contract.

(c) All recyclable materials can be placed loose in the tote containers as defined herein. If the tote container is full, corrugated cardboard must be flattened, tied in bundles and kept dry for collection or may be flattened and boxed loosely for collection and placed under or next to the tote container for collection. If the tote container is full, other items may be placed in transparent bags and placed next to the tote container for collection. Newspaper that will not fit in the tote container must be tied in bundles

or placed in transparent bags, cardboard boxes or brown paper sacks and kept dry for collection. Bundles or bags may not exceed 40 pounds.
(Code 1989, § 11-61; Ord. No. 11551, § 11, 2-18-2002; Ord. No. 11916, § 8, 3-15-2010)

Sec. 30-26. Recyclable material collection frequency.

The contractor shall provide once every other week recyclable material collection for all residential accounts. The collection of recyclables may be made on a separate day, or the same day, as the refuse collection day. The contractor shall be required to take all recyclable materials to an approved recycling facility, and shall be responsible for adequately publishing and informing all customers of pickup days and times.
(Code 1989, § 11-62; Ord. No. 11551, § 12, 2-18-2002; Ord. No. 11916, § 9, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-27. Residential recyclable material collection quantity.

There is no limit on the amount of recyclable materials that residential accounts may place for collection. Limitations only relate to the types of recyclable materials (see recyclable materials definition).
(Code 1989, § 11-63; Ord. No. 11551, § 13, 2-18-2002)

Sec. 30-28. Recyclable materials included.

(a) The contractor shall provide for the collection and disposal of the following recyclables: all types of metal containers, clean No. 1 and 2 plastics, milk jugs, plastic grocery bags, newsprint, magazines, mixed paper, corrugated cardboard, paper board and computer paper, once every other week at all residential locations covered by the contract.

(b) The contractor shall have the responsibility to collect and properly recycle or compost all recyclables listed herein, regardless of the contractor's ability to cost effectively recycle and/or compost them or obtain other satisfactory cost recovery for the variable costs of collection and recycling.
(Code 1989, § 11-64; Ord. No. 11551, § 14, 2-18-2002; Ord. No. 11839, § 1, 6-16-2008; Ord. No. 11916, § 10, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-29. Collection hours.

Hours of collection are to be from 6:30 a.m. to 5:30 p.m. Monday through Saturday, except for commercial accounts. Exceptions may be made only when the contractor has reasonably determined that it is not possible to service an existing route due to unusual circumstances or upon the mutual agreement of the city and the contractor.
(Code 1989, § 11-65; Ord. No. 11551, § 15, 2-18-2002)

Sec. 30-30. Collection location.

Solid waste and recycling collections shall be made only on streets or highways maintained by the state highway department or the city, or private streets open to the public. Alleys may be used with approval of the city codes department. Solid waste (trash) and recyclable materials shall be placed adjacent to said streets or highways in tote containers, provided by the contractor for the solid waste (trash) or recyclable materials being placed for collection. Solid waste (trash) tote containers and recyclable tote containers/bags and one large household item shall be placed adjacent to said streets or highways no later than 6:30 a.m. on the scheduled day of pickup. Tote containers containing solid waste or totes containing recyclable materials shall not be placed out for collection any sooner than 12:00 noon the day preceding the regularly scheduled collection day. Tote containers may not be permanently kept or stored at the curb location where trash or recyclables are picked up. The totes must be returned back to the residence by the end of the day following the actual day of pickup, and stored either inside or placed at the side or rear of the residence. In some situations, the front of the residence may be acceptable if approved by the city. Residential solid waste

containers, totes, household items or other person waste will not be placed in public parking areas or areas designated for public use.
(Code 1989, § 11-66; Ord. No. 11551, § 16, 2-18-2002; Ord. No. 11916, § 11, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-31. Mandatory refuse collection.

(a) The occupant of every residential account which contains only one dwelling unit shall pay the appropriate charge to the city, who will forward fees to the contractor. The occupants of every residential account which contains two, three, or four dwelling units with separate water service shall pay the appropriate monthly charge for each dwelling unit.

(b) The owner of every residential account which contains two, three or four dwelling units with single water service shall pay the appropriate monthly charge to the city, who will forward the appropriate fees to the contractor for each dwelling unit.

(c) The occupant of a residential account which contains only one dwelling unit and is the holder of a city business license; who can provide evidence of a written contract for trash collection service at the business license location utilizing a one yard or larger container on a regular weekly basis; who shall affirm on an affidavit that all the solid waste from the residential account location is being transported to the business license location in the occupant's personal vehicle and no other vehicle shall be allowed to not pay the monthly residential charge for one unit. No employee, partner or person other than the holder of the business license, shall be allowed to waive the monthly residential fee. A person wishing to be approved for a residential waiver shall apply at the department of finance, who shall forward a notification to the appropriate district contractor. The person requesting a waiver shall not be delinquent of any taxes, fees or other charges owed the city as a condition of receiving the waiver.
(Code 1989, § 11-67; Ord. No. 11551, § 17, 2-18-2002; Ord. No. 11916, § 12, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-32. Litter.

The contractor shall pick up and dispose of all refuse that has been strewn about in the immediate area by an animal, created by weather conditions or strewn about during the collection process. The city will assist with animal control enforcement where repeated litter caused by animals occurs.
(Code 1989, § 11-69; Ord. No. 11551, § 19, 2-18-2002)

Sec. 30-33. Prohibited items.

The contractor may decline to collect any container, bag or bundle not so placed in the proper location; any container not defined in the definitions; any containers/bags that contain sharp objects or liquids; any solid waste or recyclable material not properly contained; or any recyclable material bag or tote containing nonrecyclable materials. Where the contractor has reason to leave solid waste uncollected at a location, the contractor or agents shall inform the occupant owner within one day by written notice, mailing, or telephone about why the solid waste was not collected (i.e., type of solid waste, hazardous waste, unapproved containers or bundles, improper placement, etc.).
(Code 1989, § 11-70; Ord. No. 11551, § 20, 2-18-2002; Ord. No. 11916, § 14, 3-15-2010)

Sec. 30-34. Service complaints.

The contractor shall receive and respond to all complaints regarding services provided under the contract. Any complaints received by the city will be directed to the contractor's office. Should a complaint go unresolved for more than two days, the city will have the right to demand an explanation or resolution to its satisfaction.
(Code 1989, § 11-71; Ord. No. 11551, § 21, 2-18-2002; Ord. No. 11916, § 15, 3-15-2010)

Sec. 30-35. City contact person.

The contact person for the city shall be the code enforcement director for the day-to-day operation. The contractor shall provide route schedules to the code enforcement director at least 21 days before contract execution. The

contact person for the city, for all city health code and ordinance violations, shall be the code enforcement director.
(Code 1989, § 11-73; Ord. No. 11551, § 23, 2-18-2002; Ord. No. 11916, § 17, 3-15-2010)

Sec. 30-36. Large household item pickup.

One large household item per week, per household, will be picked up by the contractor in addition to normal household trash, under the following conditions:

(1) One person must be able to load the item placed for collection.

(2) Loose items such as rugs, carpet and padding must be in four-foot sections, bundled, and dry.

(3) Carpet and mattresses and other items that can retain moisture must be dry for collection.

(4) Items taken in this service include, but are not limited to, televisions, couches, chairs, other furniture, bed springs, mattresses, microwaves, lawn furniture, carpet (four-foot sections and bundled), large discarded toys, swing sets (dismantled), barbeque grills (propane tanks removed), sinks, bathroom fixtures, and push mowers (oil and gas removed).

(5) Items not accepted in the above service include, but are not limited to, batteries, tires, liquids (such as paint, gas, or oil), construction, demolition, or remodeling materials, yard waste, vegetation, and appliances.

(6) All items must be placed at the curb by 6:30 a.m. on the residents' regular trash day.

(Code 1989, § 11-74; Ord. No. 11916, § 18, 3-15-2010)

Sec. 30-37. City yard waste dumpster.

A 20-yard roll-off container may be provided year-round by the city exclusively for disposal of leaves and small limbs of less than one inch in diameter. The container shall not be used by any commercial business or contractor. Large amounts of brush or limbs will be taken to the city brush collection site. It shall be illegal for residents to place plastic bags of any kind or type in this container.
(Code 1989, § 11-75; Ord. No. 11916, § 18, 3-15-2010; Ord. No. 12127A, § 1, 10-6-2014)

Sec. 30-38. Permits, licenses and taxes.

All trash service contractors shall obtain and assume the cost of all licenses and permits and promptly pay all taxes required by the city. All contractors shall, within 30 days of the end of the month following each calendar quarter, pay the city a franchise fee equal to five percent of the gross quarterly receipts for all accounts serviced by the contractor within the city limits during that period.
(Code 1989, § 11-77; Ord. No. 11916, § 18, 3-15-2010)

Sec. 30-39. Garbage truck weight limits.

(a) No garbage trucks shall weigh over 60,000 pounds.

(b) No four-axle truck and no trucks with auxiliary axles are permitted on city streets.

Chapter 31

RESERVED

Chapter 32

STREETS AND SIDEWALKS

Article I. In General

Article II. Construction

Article III. Rights-of-Way Management

Division 1. Generally

Division 2. Small Cell Collocation

Article IV. Building Numbering

Article V. Moving of Buildings and Structures

Article VI. Poles and Wires

Article VII. Sidewalks

Division 1. Generally

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Article VIII. Landscaping

Division 1. Generally

Division 2. Trees

Subdivision I. In General

Secs. 32-336—32-356. Reserved.

Subdivision II. Program Rules and Regulations

ARTICLE I. IN GENERAL

Sec. 32-1. Protection of public generally; damaging barriers.

When any street or sidewalk in the city is being improved, constructed or repaired, either by the city or by any contractor or private person, it shall be the duty of the city, contractor or private person, if it will be injurious to such work for persons, vehicles or animals to pass over the part of the street or sidewalk being improved, repaired or constructed, to rope off or barricade such parts of such street or sidewalk, so as to give notice that the same is being improved, repaired or constructed. When any street or sidewalk is so roped or barricaded, it shall be unlawful for any person to tear down or destroy such roping or barricades, or to walk, ride or drive upon such part of such street or sidewalk, or to place or drive any beast of burden or vehicle thereon.
(Code 1974, § 21-1; Code 1989, § 21-1)

Sec. 32-2. Warning lights and guards for obstructions.

Any person who shall place or cause to be placed in any public highway any obstruction dangerous to travelers, shall cause the same to be properly guarded during the daytime and, at night, shall cause to be placed thereon a light of sufficient capacity to warn travelers of such obstruction.
(Code 1974, § 21-2; Code 1989, § 21-2)

Sec. 32-3. Obstruction of streets and sidewalks.

(a) *Unlawful.* Except as specifically provided in this chapter, it shall be unlawful to block, cause to be blocked, closed or in any way obstruct in such a fashion as to prevent the free and full use of city rights-of-way, streets, alleys, boulevards, sidewalks and thoroughfares, without first obtaining the permission of the city as prescribed by policy of the city council. This section shall not be construed to prevent persons from receiving and passing along, over and across such streets and rights-of-way any article or thing which may be necessary to so pass in the prosecution of their business when the same is done in a manner that will interfere with the full and free use of such street and right-of-way as little as may be necessary, provided that, in any event, no obstructions shall be permitted to remain on city streets and rights-of-way longer than 24 hours without first obtaining the permission of the city.

(b) *Right-of-way obstructions.* No objects or materials other than trees, small plants less than one foot in height, mulch, or small gravel may be placed in the city's rights-of-way. The materials not allowed include railroad ties, boards, landscape timbers, pottery, barrel planters, rocks larger than three-fourths inch in size, landscaping bricks and stone, and like items. These items will not interfere with the city's use of the area when required for utility, road, or infrastructure work. Any item in the right-of-way that interferes with the city's ability to perform required work will be removed without liability of damage. If items are removed from the right-of-way for required work it will be upon the property owner to replace the item.
(Code 1974, § 21-3; Code 1989, § 21-3; Ord. No. 11190, § 1, 6-5-1995; Ord. No. 11977, § 1, 10-17-2011; Ord. No. 12149, § 4, 3-16-2015)

Sec. 32-4. Depositing mud, dirt, concrete, or other types of debris on streets and sidewalks.

(a) It shall be unlawful for any persons who operate or cause to be operated any vehicle used in building or house construction work or any vehicle used to deliver construction material, or any concrete delivery truck, or any piece of machinery used in construction work to permit to be deposited from the wheels, or any other part of such vehicle, any excessive amounts of mud, dirt or debris upon the public street or sidewalks without the written prior approval of the city manager or public works director.

(b) The term "excessive amounts of mud, dirt or debris" is hereby defined as any amount of mud, dirt or debris on streets or sidewalks which might create hazardous conditions for vehicle or pedestrian traffic. The term "debris" is hereby defined to include leaves and grass clippings from lawn mowers and other rotary mowers.

These leaves and/or grass clippings may not be deposited in piles, mounds, or clumps upon any city sidewalk, in the street, or in the curb and gutter area of a street. The discharge of leaves and/or grass clippings from a lawn mower onto the street or sidewalk area is discouraged, but is not an ordinance violation as long as the grass being mowed is not of a heavy and overgrown grass area. Large amounts of grass discharged onto sidewalks or into the curb and gutter area, of an amount determined to be enough to plug city stormwater inlets, is an ordinance violation and may be prosecuted as such.

(c) If cleanup is required and conducted by the city, the property owner or business responsible for depositing the debris will be billed for the work.
(Code 1974, § 21-3.1; Code 1989, § 21-4; Ord. No. 12149, § 5, 3-16-2015)

Sec. 32-5. Property owners and occupants to clean sidewalks and remove snow.

The owners, agent or occupants of any real property within the city shall keep the sidewalk along and in front of the property owned or occupied by or under their charge or keep clean from mud, dirt, filth, snow and ice, and, after a snowfall, such owners, occupants or persons in control or charge of such property shall, within 24 hours after such snowfall, cause such snow on their sidewalks to be removed. Although the 24-hour requirement still applies, property owners should wait until street snow removal is substantially completed to prevent moving sidewalk snow more than once.
(Code 1974, § 21-4; Code 1989, § 21-5)

Sec. 32-6. Placement of snow or ice on streets and sidewalks.

It shall be unlawful for any person, business, or contractor to remove any snow or ice from driveways, parking lots, sidewalks, or other private properties and place or cause to be placed such snow or ice on any public street, alley, sidewalk, parking area or other public place without prior written approval of the city manager or public works director.
(Code 1974, § 21-4.1; Code 1989, § 21-6)

Sec. 32-7. Maintenance of shrubbery, trees, etc.; trimming near street intersections.

Any screening shrubbery, trees, foliage or bushes now existing on private property shall be maintained by the owner thereof, so as to keep the same neatly pruned and trimmed. Any existing shrubs or bushes which are closer than 15 feet to the property lines of corner lots shall be kept trimmed, so as not to obstruct any automobile driver's vision at any street intersection. If shrubbery, trees, etc., are located in the right-of-way and are not maintained per this chapter or become a safety/line of sight problem, they will be removed by the city without liability. If the shrubbery, trees, etc., are located on private property, the property owner must remove them upon receiving notice from the city codes department.
(Code 1974, § 21-5; Code 1989, § 21-7)

Sec. 32-8. Sale or display of goods, etc.

(a) It shall be unlawful for any person to place either for sale or display any goods, wares, merchandise or other items on the public streets, sidewalks or alleys within the corporate limits of the city.

(b) This section shall not apply to community-wide group-sponsored activities if such sponsoring group applies for and receives council authorization to conduct the requested activity; or to licensed merchants of shops, located immediately around the courthouse square and one block either side of the street from each corner of the square, with the following exceptions:

(1) Licensed merchants will be allowed to use no more than that portion of sidewalk immediately adjacent to their building for the display of goods sold at that location and provided there is at least four feet of sidewalk remaining for pedestrian use.

(2) The display of goods, including display appurtenances, will be allowed only during regular business hours.

(3) Licensed merchants will be prohibited from displaying any goods, wares, and merchandise on the public streets, sidewalks or alleys during community-wide group-sponsored activities without the written consent of the sponsoring group.

(c) The application for council authorization referred to in subsection (b) of this section must occur no later than the regularly scheduled council meeting immediately prior to the scheduled community-wide activity.

(d) This section shall not apply to restricted street food vendors, which is that type of operation which involves the transportation and sale of prepackaged foods only from mobile units or pushcarts, and which meets the following requirements:

(1) Have a current inspection permit signed by the county health officer which indicates that the facility and the foods served therein are in compliance with all state and local laws.

(2) Pay an annual license fee.

(3) Have a current personal liability insurance policy insuring the owner thereof in an amount required by the city.

(e) Such license shall specifically designate the location of the street vendor's operation and shall in no way authorize or empower the holder thereof to block or impede the flow of vehicular or pedestrian traffic upon the public ways of the city. It shall be unlawful for the street food vendor to operate without the location designated in the license.
(Code 1974, § 21-7.1; Code 1989, § 21-9; Ord. No. 10436, § 2, 10-21-1980; Ord. No. 11602, §§ 3, 4, 1-6-2003; Ord. No. 11977, § 2, 10-17-2011; Ord. No. 12113, § 1, 5-5-2014)

Secs. 32-9—32-34. Reserved.

ARTICLE II. CONSTRUCTION

Sec. 32-35. 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 indicates a different meaning:

Asphaltic base course means a foundation course, consisting of mineral aggregate, bound together with asphaltic material.

Asphaltic concrete means a high quality, thoroughly controlled hot mixture of asphalt cement and well-graded, high quality aggregate, thoroughly compacted into a uniform and dense mass.

Concrete means a concrete of six sacks cement per yard of concrete produced. Its minimum strength at 28 days shall be 3,500 pounds per square inch. This shall be termed "Class A concrete."

Residential street means a street on which 95 percent of the traffic is automobile or light truck (pickup) traffic or a street in a purely residential area.
(Code 1974, § 21-8; Code 1989, § 21-26)

Sec. 32-36. New and rehabilitated streets.

The pavement of any new or rehabilitated street shall be a minimum of six inches of asphaltic concrete (asphalt) and built to MoDOT standards. Asphalt used will be a at a minimum BP1 or BP2 MoDOT virgin mix design or other mix design approved by the city engineer and public works director. See MoDOT section 403 for asphalt specifications, including density and compaction requirements. Compacted subgrade for all pavement types and curb shall be six inches minimum and 95 percent of the standard maximum density. Concrete curb will be built using MoDOT B1 or B2 concrete design, 4,000 psi (see MoDOT section 501 for specifications). It is the responsibility of the builder to provide concrete cylinder strength testing from a certified lab. Random concrete loads selected by the city engineer for cylinder test will be conducted at least twice daily. Failure to meet the 4,000 psi strength will result in the city not accepting the

street into its inventory. Soil test results of the areas to be paved will be provided to the city engineer and public works director prior to construction. The common soil test for road construction includes classification of soil, particle size distribution, moisture content determination, specific gravity, liquid limit and plastic limit tests. Moisture content, particle size and specific gravity tests on soils are used for the calculation of soil properties such as degree of saturation. Based on the test results, soil stabilization may be required at owner's expense. Soil stabilization, if required, will be accomplished using lime or cement. A street engineering design/plan including profiles, elevations, curb, drainage, stormwater plan, etc., must be submitted to and approved by the city engineer and public works director prior to construction. All required testing, to include, at a minimum, soil, strength, cylinder, and density testing, is the responsibility of the owner, contractor, and/or developer. Each phase of the project (i.e., soil testing/stabilization, subbase construction, curbs, storm drainage, and each lift of asphalt), must be inspected and approved by the city engineer prior to moving to the next stage. Failure to build the street in accordance with the above standards, procedures, and specifications or to provide required testing information/results required by the city from certified labs will result in the city not accepting the street into its inventory. All work will be warranted by the contractor for two years from the day of acceptance by the city.
(Code 1974, § 21-9; Code 1989, § 21-27; Ord. No. 12170, § 1, 9-21-2015)

Sec. 32-37. Concrete streets when permitted.

Concrete streets are not allowed unless just cause is provided by the owner, contractor, or developer and approved by the city engineer and public works director. Cost will not be considered as a just cause. If concrete is approved, new local residential streets shall be at least six inches of MoDOT B1 or B2 design, 4,000 psi (see MoDOT section 501 for specifications). Curb will be built using the same MoDOT B1 or B2 design, 4,000 psi concrete. Compacted subgrade for all pavement types and curb shall be six inches minimum and 95 percent of the standard maximum density. It is the responsibility of the builder to provide concrete cylinder strength testing from a certified lab. Random load selected by the city engineer for cylinder test will be conducted at least twice daily. Failure to meet the 4,000 psi strength will result in the city not accepting the street into its inventory. Soil test results of the areas to be paved will be provided to the city engineer prior to construction. The common soil test for road construction includes classification of soil, particle size distribution, moisture content determination, specific gravity, liquid limit and plastic limit tests. Moisture content, particle size and specific gravity tests on soils are used for the calculation of soil properties such as degree of saturation. Based on the test results, soil stabilization may be required. Soil stabilization, if required, will be accomplished using lime or cement. A stormwater plan and specification must be included in the street engineering design/plan including profiles, elevations, curb, drainage, stormwater plan, etc., must be submitted to and approved by the city engineer and public works director prior to construction. All soil, density, mix design, and strength testing is the responsibility of the owner, contractor, and/or developer. Failure to build the street in accordance with the above standards, procedures, and city/MoDOT specifications or to provide required testing information/results required by the city from a certified lab will result in the city not accepting the street into its inventory. All work will be warranted by the contractor for two years from the day of acceptance by the city.

Sec. 32-38. Curbs.

All curbs shall be at least either six inches by 5¾ inches of MoDOT B1 or B2 design, 4,000 psi (see MoDOT section 501 for specifications) concrete. All other curb design must be capable of caring the required stormwater and approved by the city engineer prior to construction. In all cases, it shall be poured monolithically with the pavement.
(Code 1974, § 21-10; Code 1989, § 21-28)

Sec. 32-39. Sidewalks.

(a) *Sidewalk specifications.*

(1) Sidewalks in the city right-of-way shall be a minimum of five feet wide and four inches thick.

(2) Sidewalks that cross a driveway or alley shall be a minimum of six inches thick.

(3) Sidewalks shall have control joints a minimum of every five feet or at a distance equal to the width of the sidewalk. Control joints shall be a depth of one-third the depth of the thickness of the sidewalk.

(4) Sidewalks will be constructed on a subgrade compacted to the same specified density of the applicable subgrade for street construction. Large rocks, boulders, and tree roots shall be removed to a depth of six inches below the bottom of the proposed concrete and the space filled with suitable materials.

(5) All sidewalks shall have reinforcements installed in all concrete. Reinforcements shall be a minimum of #3 rebar (three-eighths-inch diameter bar) no more than 24 inches on center. If using fiber mesh in the concrete mix, the rebar reinforcement may be placed at no more than 42 inch centers. Sidewalks shall have the option of using a six-inch by six-inch welded wire mesh of ten gauge steel, minimum, for reinforcement.

(6) Expansion joint material shall be placed every 50 feet, at property lines, and between any new and existing concrete.

(7) Sidewalks shall be constructed of air entrained Class A concrete. Concrete for sidewalks shall have a maximum slump of four inches. Concrete shall have a minimum compressive strength of 4,000 psi within 28 days of placement. Air content shall be no less the five percent or more than seven percent.

(8) All public sidewalks shall conform to the Americans With Disabilities Act (ADA) standards for handicap accessibility.

(b) *Exceptions.* Existing sidewalks in the city right-of-way that are four feet wide may be replaced with four feet wide sidewalks that meet the required ADA standards.

(Code 1974, § 21-11; Code 1989, § 21-29; Ord. No. 12280, § 1, 5-7-2018)

Secs. 32-40—32-66. Reserved.

ARTICLE III. RIGHTS-OF-WAY MANAGEMENT

DIVISION 1. GENERALLY

Sec. 32-67. Applicability.

To the extent permitted by law, this article shall apply to all persons desiring to construct, operate, maintain facilities, or place any object in, across, under or over public rights-of-way within the city.

(Code 1989, § 21-51; Ord. No. 11386, § 2, 5-3-1999)

Sec. 32-68. 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:

Applicant means the specific person, contractor, or developer applying for and receiving a permit for facilities work.

Application means that application provided by the city to which an applicant must use to obtain an approved permit to conduct facilities work within, across, under, over, or within ten feet of the city's rights-of-way.

Excavation means any act by which earth, asphalt, concrete, sand, gravel, rock or any other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced by means of any tools, equipment or explosives, except that any de minimis displacement or movement of ground caused by pedestrian or vehicular traffic which does not materially disturb or displace surface conditions of the earth, asphalt,

concrete, sand, gravel, rock or any other material in or on the ground shall not be deemed excavation.

Facilities means any conduit, duct, line, pipe, wire, hose, cable, culvert, pole, receiver, transmitter, satellite dish, micro call, pico cell, repeater, amplifier, or other device, material, apparatus, or medium, usable (whether actually used for such purpose or not) for the transmission or distribution of any service or commodity installed below or above ground within the public rights-of-way of the city, whether used privately or made available to the public.

Facilities work means the installation of new facilities, or any change, replacement, relocation, removal, alteration or repair of existing facilities, that requires excavation within the public rights-of-way, except for the occasional replacement of utility poles and related equipment at an existing location or immediately adjacent to an existing location, and excluding individual service connections.

Individual service connection means individual water and sewer taps permitted as part of a building permit, and individual service connections from a supply line, wire, or cable, for natural gas, electric, cable television, telecommunications, or other services to a residence or business.

Minor facilities work means work that will not disrupt any pavement, drainage systems or other structures.

Normal business hours means 8:00 a.m. to 5:00 p.m. central standard time, Monday through Friday.

Permit means a permit granted by the city engineer to do the facilities work within the public rights-of-way.

Project means a written plan of work prepared and presented by an applicant that encompasses an outlined scope of work to be conducted within the city's right-of-way.

Public rights-of-way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, public easement, or other similar property in which the city now or hereafter holds any property interest, which was dedicated or acquired for public use. No reference herein, or in any permit, to the term "public rights-of-way" shall be deemed to be a representation or guarantee by the city that its interest or other right to control the use of such property is sufficient to permit its use for such purposes. The term "public rights-of-way" does not include the airwaves above the rights-of-way with regard to cellular or other nonwire telecommunications or broadcast services, or private easements.
(Code 1989, § 21-52; Ord. No. 11386, § 2, 5-3-1999)

Sec. 32-69. Permit requirements.

Any person desiring to conduct facilities work within public rights-of-way, or ten feet thereof, must first apply for and obtain a permit, in addition to any other building permit, license, easement, or authorization required by law, unless such facilities work must be performed on an emergency basis, then the person conducting the work shall as soon as practicable, but no less than six hours, notify the city of the location of the work and shall apply for the required permit by the next business day following the commencement of the facilities work. A permit should be obtained for each project. Work performed without an approved permit is subject to removal.

(1) All applications for permits shall be submitted to the city engineer. The city engineer shall make available standard forms for such application, requiring such information as the city engineer determines to be necessary, to be consistent with the provisions of this article, to accomplish the purposes of this article. As a minimum, the application should have the following information:

   a. The name, address, and telephone number of applicant.

   b. The legal status of the applicant.

   c. The name, address, and telephone number of a responsible person whom the city may notify or contact

at any time concerning the applicant's facilities work in or on the city public rights-of-way.

d. The name, address, and telephone number of the owner of the facilities if different than the applicant.

e. An engineering site design/plan developed by a licensed engineer showing the proposed location of the applicant's facilities, including all utilities, length, size, type, proposed depths, grades, elevations, etc., of any construction or facility; and the relationship of the facilities to all existing streets, water lines, sanitary sewer, storm sewer, etc. The applicant shall include all rights-of-way on the engineering design. If road crossings are required, the dimensions and character of any cut or excavation, and the number of square feet to be resurfaced, shall be indicated on the engineering design/plan. Street and curb must be replaced using the specification in section 32-36.

f. Each application should include the projected commencement and termination dates or, if such dates are unknown at the time the permit is issued, a provision requiring the permit holder to provide the city engineer with reasonable advance notice of such dates once they are determined. If these dates change, the applicant shall provide new dates for approval by the city engineer.

g. Certificates of insurance as required by the city.

h. Any additional information that the city engineer may require, which may include such conditions and requirements as are reasonably necessary to protect structures and facilities in the public rights-of-way from damage or access and for the proper restoration of such rights-of-way, structures and facilities, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

(2) Building permits issued by the code enforcement director shall include authorization to make and repair individual service connections in the public right-of-way without the need for a separate right-of-way permit. All repairs to the right-of-way made as a result of individual service connections shall be in accordance with section 32-70(b) and appendix A of this article. Any repair of city streets or curb will be in accordance with section 32-36.

(3) Each such application shall be accompanied by payment of fees as designated in this article.

(4) The city engineer shall review each application for a permit and, upon determining that the applicant has all requisite authority to perform the desired facilities work, and that the applicant has submitted all necessary information and has paid the appropriate fee, shall issue the permit, except as provided in subsection (8) of this section.

(5) It is the intention of the city that disruption of the public rights-of-way should be minimized. Upon receipt of an application for a permit, the city engineer shall do the following:

a. Evaluate the degree of excavation necessary to perform the facilities work in the right-of-way and determine whether the proposed excavation will be more than minor in nature. The city engineer shall grant a permit within ten business days for facilities work deemed minor in nature. If the applicant can show to the city engineer's reasonable satisfaction that the facilities work involves time sensitive maintenance, then the city engineer shall grant the permit within two business days. In either instance, if the permit is not issued in ten business days, the

aggrieved party may appeal to the city manager as provided in subsection (9) of this section, unless the applicant is submitting one project application for multiple excavations, constructions or installations; and

b. For circumstances where the city engineer determines that the proposed facilities work will not be minor in nature and no exemption under subsection (5)a of this section or any other provisions of this subsection applies, the city engineer may, consistent with the time requirements set forth in subsection (5) of this section and in the permit, direct permit holders performing facilities work in the same area to consult with the city engineer on how they may schedule and coordinate their work to accomplish the goal of this section. If the permit is not issued within ten business days, the aggrieved party may appeal to the city manager as provided in subsection (9) of this section, unless the applicant is submitting one project application.

(6) An applicant receiving a permit shall notify the city engineer of any changes in the information submitted in an application prior to moving forward with the changes.

(7) The city engineer shall maintain an index of all applicants who have been granted permits and their point of contact.

(8) The city engineer may deny an application for the following reasons if deemed in the public's interest:

a. Past due fees from prior permits;

b. Failure to return the right-of-way to its previous condition, or repairing city infrastructure in accordance with the city ordinance;

c. Undue disruption to existing utilities, transportation, public or city use;

d. Area is environmentally sensitive as defined by state or federal statute;

e. Failure to provide required information;

f. The applicant is in violation of the provisions of this article;

g. Location would impede maintenance of existing facilities;

h. Work that negatively impacts storm drainage; or

i. Failure to submit approved engineering designs/plans.

If a permit is denied under subsection (8)c or d of this section, the city engineer will cooperate with the applicant to identify alternative routes which most nearly match the routes requested by the applicant for the placement of facilities.

(9) The applicant may appeal any final decision of the city engineer to the city manager, which appeal shall be acted upon by the city manager within five business days; and if denied by the city manager, the applicant may then appeal to the city council, which shall act upon the appeal within 60 days.

(10) Applicable fees.

a. Any fees collected pursuant to this section will be used only to reimburse the city for costs incurred in managing the rights-of-way and will not be used to generate revenue to the city above such costs. The following fees shall be collected:

1. Excavation permit fee.

2. Annual excavation permit fee for nonexclusive franchisees and owners of facilities that maintain more than 1,000 lineal feet of facilities within the public right-of-way.

b. Fees for private connections for water and sewer service shall be in conformance with chapter 40.

(Code 1989, § 21-53; Ord. No. 11386, § 2, 5-3-1999)

Sec. 32-70. Facilities work.

(a) *Oversight of facilities work.*

(1) Applicants shall comply with all city codes and ordinances.

(2) Facilities work shall be subject to periodic inspection by the city.

(3) The city engineer shall have full access to all portions of facilities work and may issue stop-work orders and corrective orders to prevent unauthorized work, violations of ordinances or statutes, and noncompliance with the city's stormwater management program. Such corrective or stop-work orders shall state that work not authorized or violation by the permit is being carried out, summarize the unauthorized work or violation and provide a period of no longer than 30 days to cure the problem, the cure period may be immediate if certain activities must be ceased to protect the public safety, and may be delivered personally or by certified mail to the address listed on the application for permit or to the person in charge of the construction site at the time of delivery. Such orders may be enforced by equitable action in the circuit court of the county, and if the city prevails in such case, the person involved in the facilities work shall be liable for all costs and expenses incurred by the city, including reasonable attorney's fees, in enforcing such orders, in addition to any and all penalties established in this article.

(4) Any person who engages in facilities work in the public rights-of-way and who has not received a valid permit from the city shall be subject to all requirements of this article. Except in those instances where facilities work must be performed on an emergency basis, the city may, in its discretion, at any time until a permit is secured, order the facilities work ceased and do any of the following:

a. Require such person to apply for a permit within 30 days of receipt of a written notice from the city that a permit is required;

b. Require such person to remove its property and restore the affected area to a condition satisfactory to the city; or

c. Take any other action it is entitled to take under applicable law, including, but not limited to, filing for and seeking damages for trespass.

(5) Records. Owners of facilities that maintain more than 1,000 lineal feet of facilities within the public rights-of-way shall keep complete and accurate maps and records of the location of their facilities. Applicants that maintain more than 1,000 lineal feet of facilities within the public rights-of-way shall file with the city engineer a current map of those portions of the owner's/franchisee's system which lie within the public rights-of-way within 30 days of the completion. Maps furnished to the city engineer shall show the location of facilities, and their relationship to existing streets or rights-of-way. Map updates shall be provided to the city engineer at the time of payment of the annual excavation permit fee. The city shall indemnify the owners of facilities required to provide a map from any damages or harm caused by the improper use or distribution of the maps and/or records provided by the owners of the facilities, unless such damage or harm is caused by the owner of the facilities. Such maps are intended to be proprietary to the owners of the facilities and not owned by the city. The city, to the extent permitted by law, will not provide such maps to third parties.

(6) Assignment of permit. The rights granted by this article inure to the benefit of applicant. The rights shall not be

assigned, transferred, sold or disposed of, in whole or in part, by voluntary sale, merger, consolidation or otherwise by force or involuntary sale without the expressed written consent of the city. Any such consent shall not be withheld unreasonably, and shall not be required for assignment to entities that control, are controlled by, or are under common control with the applicant.

(7) Termination of permit and removal of installations. Should any applicant fail to abide by the terms of a permit, the city engineer shall issue an immediate stop of activities, and the city council may, after 30 days' written notice of breach or default, and after a public hearing in which applicant has been afforded due process, terminate a permit if the applicant has failed to undertake reasonable steps to cure such default. Upon such termination, the city may order the removal of any of applicant's installations under this permit and if the applicant should refuse, the city may remove such installations at the applicant's expense.

(b) *Construction standards.*

(1) The construction, operation, maintenance, and repair of facilities shall be in accordance with applicable health, safety, construction codes, ordinances, and statutes.

(2) All facilities shall be installed and located with due regard for minimizing interference with the public, including the city and other owners of facilities of the rights-of-way.

(3) Before initiating construction on city streets and public rights-of-way, the applicant will make all reasonable efforts to use existing infrastructure for new facilities (i.e., existing poles and conduit, etc.). However, an applicant shall not place facilities where they will damage or interfere with the use or operation of previously installed facilities, or obstruct or hinder the various utilities serving the residents and businesses in the city or their use of any public rights-of-way.

(4) Any and all public rights-of-way disturbed or damaged during the facilities work shall be promptly repaired or replaced by the applicant to its previous condition. Streets and curbs must be replaced in accordance with section 32-36.

(5) Any contractor or subcontractor used for facilities work must be properly licensed under laws of the state and all applicable local ordinances, and each contractor or subcontractor shall have the same obligations with respect to its work as an applicant would have hereunder and shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with its permits and applicable law, shall be fully responsible for all acts or omissions of contractors or subcontractors, and shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor.

(6) Additional requirements concerning the restoration and maintenance of the public right-of-way during and after construction of the facilities work is included in appendix A of this article.

(7) The technical specifications, as fully set forth herein as appendix A, may be amended by the city engineer, as deemed necessary to ensure conformance with the most recent technical specifications and standard plans as maintained by the city engineer. The city engineer shall notify facility owners and contractors of proposed changes to the technical specifications, at least 30 days prior to the implementation of the change.

(Code 1989, § 21-54; Ord. No. 11386, § 2, 5-3-1999)

Sec. 32-71. Performance guarantee and remedies.

(a) *Performance bond.*

(1) Prior to any facilities work in the public rights-of-way, an applicant shall establish

in the city's favor a performance bond in the in the amount provided in the city fee schedule for facilities work. Owners of facilities that maintain more than 1,000 lineal feet of facilities within the public right-of-way and franchisees shall establish in the city's favor a performance bond in the amount provided in the city's fee schedule. Differences in bond requirements, including provisions for self-insurance or provisions for a single continuing bond where facilities work is conducted by the same applicant under numerous permits, may be established by regulation based on the extent or nature of the facilities work, the past performance of the applicant and not based on the characteristics of the applicant.

(2) In the event an applicant fails to complete the facilities work in a safe, timely, and competent manner, there shall be recoverable, jointly and severally from the principal and surety at the bond, any damage or loss suffered by the city as a result, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.

(3) Upon completion of the facilities work to the satisfaction of the city engineer, the city engineer shall eliminate the bond or reduce its amount after a time appropriate to determine whether the work performance was satisfactory, which time shall be established by the city engineer considering the nature of the work performed.

(4) A performance bond shall be issued by a surety acceptable to the city, and shall contain the following endorsement: "This bond may not be canceled, or allowed to lapse until 60 days after receipt by the city, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

(5) Recovery by the city of any amounts under the performance bond does not limit an applicant's duty to indemnify the city in any way, nor shall such recovery relieve an applicant of its obligations under a permit or reduce the amounts owed to the city other than by the amounts recovered by the city under the performance bond, or in any respect prevent the city from exercising any other right or remedy it may have.

(b) *Cost recovery.*

(1) In the event that an excavation is not refilled or repaired within a reasonable time after it is ready for refilling, the city engineer shall notify the applicant making the excavation that if such excavation is not filled within four days a stop-work order will be issued and, the excavated area shall be filled by the city. If the excavated area effects safety, the fill order will be filled by the contractor or city immediately. If the city completes the work, the city will charge for the cost of such work and the permit holder shall pay the cost within ten days after completion. The stop order will remain in place until such charges have been paid.

(2) In the event that the applicant fails to backfill, repair or repave any excavations made within the public rights-of-way, the city shall, at its option, repair the cut with city staff or contract for the repair to be made, and charge the applicant for the full contract cost of repair. If the city makes the repair with city forces, the charges shall be based on the unit price paid on the most recent street improvement or pavement repair contract issued by the city engineer.

(3) In the event the city incurs additional costs as a direct result of an unauthorized action or an inaction by any person and/or owner of facilities, the city shall have the right to recover from that person or owner any and all documentable costs incurred, including, but not limited to, the identification of undocumented facilities, completion of improper facilities work, long-term structural damage, construc-

tion delay fees and penalties, fees paid to other agencies and any other documentable costs incurred by the city within the rights-of-way.

(4) Damage to private property caused by a violation, action, inaction, or neglect of the permit holder will be the responsibility of permit holder. The city will not be held liable for these damages even if the construction or final inspection is approved.

(c) *Penalties.* For each violation of provisions of this section, or a permit granted pursuant to this section as to which the city has given notice to the applicant as provided in this section, penalties may be chargeable to the applicant at a rate not exceeding $100.00 per day for so long as the violation continues.

(Code 1989, § 21-55; Ord. No. 11386, § 2, 5-3-1999)

Sec. 32-72. Relocation of facilities on existing right-of-way.

Whenever, by reason of changes in the grade or widening of a street or in the location or manner of constructing a water pipe, drainage channel, sewer or other city owned underground or above ground structure it is deemed necessary by the city to move, alter, change, adapt, repair or conform the underground or above ground facilities of the applicant, the applicant shall make the alterations or changes, on alternative right-of-way provided by the city, if available, within six months after being so ordered in writing by the city at the facility owners expense without claim for reimbursement or damages against the city. If the relocation is considered an emergency or required for new infrastructure the timeline may be shortened. The city will endeavor to minimize the interference with previously installed facilities when conducting its own facilities work.

(Code 1989, § 21-56; Ord. No. 11386, § 2, 5-3-1999)

Sec. 32-73. Miscellaneous provisions.

(a) *Compliance with laws.* Each applicant shall comply with all applicable federal and state laws as well as city ordinances, resolutions, rules and regulations heretofore and hereafter adopted or established.

(b) *Applicant subject to other laws, police power.*

(1) An applicant shall at all times be subject to all lawful exercise of the police powers of the city, including, but not limited to, all powers regarding zoning, supervision of the restoration of the right-of-way, and control of public rights-of-way.

(2) No action or omission of the city shall operate as a future waiver of any rights of the city under this article.

(3) Except where rights are expressly granted or waived by a permit, they are reserved, whether or not expressly enumerated. This article may be amended from time to time and in no event shall this article be considered a contract between the city and an applicant such that the city would be prohibited from amending any provision hereof.

(c) *Indemnification.* The applicant shall, at its sole cost and expense, indemnify, hold harmless, and defend the city, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments, including reasonable attorney's fees, for damage or equitable relief arising out of the construction and maintenance of the applicant's facilities work, except to the extent such claim, suit, cause of action, proceeding, or judgment for damages or equitable relief arises out of the negligent or willful misconduct of the city, its officials, board members, agents or employees.

(d) *Franchise not superseded.* Nothing herein shall be deemed to relieve an applicant or the city of the provisions of an existing franchise, license, or other agreement or permit.

(e) *Rights and remedies.*

(1) The exercise of one remedy under this article shall not foreclose use of another, nor shall the exercise of a remedy or the payment of damages or penalties relieve an applicant of its obligations to comply with its permits. Remedies may be used

alone or in combination; in addition, the city may exercise any rights it has at law or equity.

(2) The city hereby reserves to itself the right to intervene in any suit, action or proceeding involving any provisions of this article.

(3) No applicant shall be relieved of its obligation to comply with any of the provisions of this article by reason of any failure of the city to enforce prompt compliance.

(f) *Incorporation by reference.* Any permit granted pursuant to this article shall by implication include a provision that shall incorporate by reference this article into such permit as fully as if copied therein verbatim.

(g) *Force majeure.* An applicant shall not be deemed in violation of provisions of this article where performance was rendered impossible by war or riots, civil disturbances, floods, or other natural catastrophes beyond the applicant's control, and a permit shall not be revoked or an applicant penalized for such noncompliance, provided that the applicant takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its permit without unduly endangering the health, safety, and integrity of the applicant's employees or property, the public, public rights-of-way, public property, or private property.

(h) *Calculation of time.* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this article or any permit, and a period of time is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time.

(i) *Eminent domain.* Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, any right the city may have to acquire the property of the applicant through the exercise of the power of eminent domain.

(j) *Standards applicable to city.* Any standards in this article relating to facilities work shall be fully applicable to work performance by the city and its departments.

(k) *Rights in the event of abandonment.* In the event that the governing body of the city closes or abandons any right-of-way which contains the facilities of the applicant installed hereunder, any land contained in such closed or abandoned right-of-way shall be subject to the rights of the applicant.

(l) *Annexation.* The provisions of this article shall specifically apply to any lands or property annexed as of the date of such annexation.

(m) *Savings clause.* Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplement, or otherwise nullify any other ordinances of the city or requirements thereof, whether or not relating to in any manner connected with the subject written hereof, unless expressly provided otherwise herein or hereafter.

(n) *Maintenance of mailboxes located on city streets and curbs.* Citizens who erect custom mailboxes or who construct brick structures around mailboxes as an enclosure that are located in the city right-of-way along a street accept the responsibility for maintenance and repair of the structure. Any damage done to a custom mailbox that is determined to be from a city vehicle striking the mailbox will be compensated at the rate of $50.00 to the property owner, with the property owner providing any needed repairs or replacement. Any standard mailbox mounted on a post that is determined to have been damaged by a city vehicle will have the mailbox replaced by city employees to meet minimum postal service requirements. Damage to mailboxes that occurs due to heavy, wet, frozen, or wind-driven snow will not be compensated by the city.
(Code 1989, § 21-57; Ord. No. 11386, 5-3-1999; Ord. No. 12149, § 6, 3-16-2015)

Sec. 32-74. Appendix A.

Appendix A of this article is as follows:

APPENDIX A

CITY OF KIRKSVILLE, MISSOURI

ENGINEERING DEPARTMENT

TECHNICAL SPECIFICATIONS

for

UTILITY WORK IN CITY RIGHT-OF-WAY

Note: Standard drawings for pavement repair are available at no cost from the engineering department.

DIVISION 1. GENERAL REQUIREMENTS

1.1. Summary of work.

1.1.1. Work covered by these specifications.

The work covered by these specifications shall consist of any and all utility work performed or to be performed in, under, or through rights-of-way, streets, or alleys owned by the city, including, but not limited to, water supply, sanitary sewer, storm sewer, telephone, fiber optic cable, gas pipe lines, electrical conduit or conductors, cable television lines, and telecommunication facilities, and any new utility approved by the city. It is to include repair of street cuts, curb, sidewalks, required final grading, clean-up, disposal of surplus materials and seeding or sodding.

1.1.2. Work sequence.

The permit holder, or contractor, shall schedule the work to allow emergency vehicle access to public and private property at all times. Private drives and public streets and alleys shall be opened for use at the end of each work day.

1.1.3. Permit holder use of premises.

The permit holder shall confine construction equipment, storage of materials and equipment, and operations or workers to areas within the public rights-of-way and easements of record as indicated on the drawings or as directed and approved by the city engineer. If permit holder proposes to use any private property for the use, and shall be solely responsible for making arrangements for such use with the property owner. The permit holder must provide written permission from the property owner to the city engineer. The city shall not be liable for any damages caused by permit holder's use of such property.

1.1.4. Coordination with work by others.

The permit holder shall cooperate with the city's employees or others who may be working in the area of this work. The permit holder must coordinate the work to not interfere with the work of others unnecessarily. The permit holder will not be required to interrupt the progress of the permit holder's operations materially to ensure such coordination.

1.2. Existing above ground and underground installation and structures.

1.2.1. General.

Utility poles, pipe lines and other existing above ground and underground installations and structures in the vicinity of the work are to be indicated on the engineer design/plans according to the best information available to the permit holder and the city engineer. It is the permit holder's sole responsibility to locate and indicate all installations and structures on the submitted engineer design/plans.

The permit holder shall make every effort to protect such installations and structures. The permit holder shall contact the owners of such installations and structures and prospect in advance of trench excavation. Any delays or extra cost to the permit holder caused by such installations and structures, whether shown on the plans or not, or found in locations different than those indicated, shall not constitute a claim against the city for extra work, additional payment or damages.

Damage to existing above ground and underground installations or structures caused by the permit holder shall be repaired by the permit holder as directed by the owner of such installation or structure. The owner of such installation or structure shall be notified immediately of any such damage and repairs made as soon as possible to keep the interruption of service to a minimum. The permit holder

shall bear any costs assessed because of such repairs and shall hold the city and engineer harmless.

1.3. Traffic control and safety.

1.3.1. General.

The provisions of 1.3 will be required for all arterial and collector streets, and for those residential streets identified by the city.

1.3.2. Maintenance of traffic.

The permit holder shall conduct the work as to interfere as little as possible with public travel, whether vehicular or pedestrian. Whenever it is necessary to cross, obstruct, or close roads, driveways and walks, whether public or private, the permit holder shall provide and maintain suitable and safe bridges, detours or other temporary expedients for the accommodations of public and private travel, and shall give reasonable notice to owners of private drives before interfering with them. Prior to interfering with the public travel in any way, the permit holder shall notify the police department with information as to the extent of the interference and the length of time of such interference.

1.3.3. Flaggers, barricades and lights.

All traffic control will be in accordance with MoDOT Engineering Policy Guide, Category 616 Temporary Traffic Control. Any time traffic has a potential to meet head on, flaggers are required. All streets, roads, highways and other public thoroughfares which are closed to traffic shall be protected by means of effective barricades on which shall be placed acceptable warning signs. Barricades shall be located at the nearest intersecting public highway or street on each side of the blocked sections.

All open trenches and other excavations shall be provided with suitable barriers, signs and lights that meet MoDOT specifications. Obstructions, such as material piles and equipment, shall be provided with similar warning signs and lights. All barricades and obstructions shall be illuminated by means of warning lights at night. All lights used for this purpose shall be kept burning from sunset to sunrise. Materials stored upon or alongside public streets shall be so placed, and the work at all times shall be so conducted, as to cause the minimum obstructions and inconvenience to the traveling public.

All flaggers, barricades, signs, lights and other protective devices shall be conducted, installed and maintained in conformity with MoDOT Engineering Policy Guide, Category 616 Temporary Traffic Control or current MoDOT policy. All contractors, developers, and owners must certify that all flaggers and traffic control personnel are trained in accordance with MoDOT category 616.

1.4. Shop drawings.

1.4.1. General.

An engineer's drawing or manufacturer's literature shall be required for water distribution systems for the following items: pipe and fittings, valves, and fire hydrants. Fire hydrants must be purchased from or approved by the city. Material certification may be required on all other materials used in the installation of work in the city's rights-of-way. All work must be inspected and approved by the city engineer/code enforcement director prior to covering with dirt and acceptance by the city.

1.5. Backfill.

1.5.1. General.

There is no ordinary backfill in work performed in city rights-of-way. All backfill will be 90 percent or 95 percent compacted as required by the specifications. The owner/contactor is responsible for repairing the backfill if settling occurs. There is no timeframe associated with backfill repair.

DIVISION 2. EXCAVATION, TRENCHING AND BACKFILL

2.1. General.

This specification covers excavation and trenching and backfilling work and shall include the necessary clearing, grubbing and preparation of the site; removal of improvements; removal and disposal of all debris; excavation and trenching as required; the handling, storage, transportation and disposal of all excavated material; all

necessary sheeting, shoring, and protection work; preparation of subgrades; pumping and dewatering as necessary or required; protection of adjacent property; backfilling; pipe embedment; surfacing and grading; and other appurtenant work.

Excavation, trenching and backfilling work shall be performed in a safe and proper manner, with suitable precautions being taken against hazards of every kind. Excavation shall provide adequate working space, clearance, and safety measures for the work to be performed therein.

No backfill, fill or embankment materials shall be installed on frozen surfaces, nor shall frozen materials, snow or ice be placed in any backfill, fill, or embankments.

2.2. Classification of excavated materials.

No classification of excavated materials will be made. Excavation and trenching work shall include the removal and subsequent handling of all materials excavated or otherwise removed in performance of the contract work, regardless of the type, character, composition, or condition thereof. The permit holder is responsible to ensure all local, state, and federal laws, regulations, and policies are adhered to.

2.3. Removal of water.

The permit holder shall provide and maintain adequate dewatering equipment to remove and dispose of all surface water and groundwater entering excavations, trenches, or other parts of the work. Each excavation shall be kept dry during subgrade preparation and continually thereafter until the underground utility to be installed therein is completed to the extent that no damage from hydrostatic pressure, flotation, or other causes will result.

Surface water shall be diverted or otherwise prevented from entering excavated areas or trenches, to the greatest extent practicable without causing damage to adjacent property.

2.4. Sheeting and shoring.

Except where banks are cut back on a stable slope, excavation for structures and trenches shall be properly and substantially sheeted, braced, and shored, if trenches are four feet in depth or greater, to prevent caving or sliding, to provide protection for workmen and the work, and to provide protection for existing structures and facilities. Sheeting, bracing, and shoring shall be designed and built to withstand all loads that might be caused by earth movement or pressure, and shall be rigid, maintaining its shape and position under all circumstances.

2.5. Stabilization.

Trench bottoms shall be firm, dense, and thoroughly compacted and consolidated; shall be free from mud and muck; and shall be sufficiently stable to remain firm and intact under the feet of the workmen.

Trench bottoms which are otherwise solid shall be reinforced with one or more layers of crushed stone embedded therein. Not more than one-half inch depth of mud or muck shall be allowed to remain on stabilized trench bottoms when the pipe bedding material is placed thereon.

All stabilization work hereunder shall be performed by and at the expense of the permit holder.

2.6. Trench excavation.

Except where "knifing," boring or tunneling is shown on the plans, is specified, or is permitted by the engineer, all trench excavation shall be open cut from the surface.

The permit holder shall not open more trench in advance of underground utility laying than is necessary to expedite the work. In the event of work stoppage, the city will allow no more than 100 feet in length of open trench. The contractor is responsible for providing appropriate fencing, barricades and markings.

In the event that the trench extends into any street, the trench will be filled with gravel to the grade of the street before the permit holder departs the site for the day. No trench located in the street will be left unattended prior to filling. Traffic control and flagger procedures apply.

2.7. Alignment and grade.

2.7.1. Alignment and grade—Water mains.

The alignment and grade or elevation of each pipe line at highway, street, and other critical points shall be fixed as determined by means of offset stakes to be set by the permit holder. At other locations, line stakes will be furnished and set by the permit holder. Pipe is to be laid with 3.5 feet minimum cover with straight sections laid in a straight alignment and curved sections laid at an approximate uniform rate of curvature. Vertical and horizontal alignment of pipes, and the maximum joint deflection used in connection therewith, shall be in conformity with the requirements of the specification covering the installation of the pipe being laid in each case.

2.7.2. Alignment and grade—Sewer.

Pipe shall be laid true to line and grade as shown on drawings prepared by licensed engineer. Each section of pipe shall rest upon the pipe bed for the full length of the barrel with recesses excavated to accommodate bell joints. Any pipe that has its grade alignment or joint disturbed after laying shall be taken up and relaid. Under no circumstances shall pipe be laid in water or when weather or trench conditions are unsuitable for such work in the opinion of the engineer.

Sewer mains shall be laid on a uniform grade, and at a uniform (straight) alignment between manholes. All changes in grade and or alignment shall be made only at a manhole.

Sewer service laterals shall be laid at uniform grade and alignment. Clean-outs shall be provided at any change in grade or alignment of over 45 degree angle. No change in grade or alignment shall be permitted in that portion of a service lateral passing under a city street.

2.7.3. Alignment and grade—Natural gas pipe lines.

Natural gas pipe lines laid in the city right-of-way shall be laid in a straight alignment parallel or perpendicular to the street centerline to the extent possible. Natural gas transmission lines shall be placed at depths specified by DOT/MPSC part 192.

Nonmetallic lines shall be buried with metallic locator wires or tape which will permit accurate location of said lines from the surface with normal magnetic locator devices.

Any line passing under a city street shall be buried at a minimum of 36 inches below the street surface.

2.7.4. Alignment and grade—Telecommunications lines.

Telecommunication lines buried in the city right-of-way shall be laid in a straight alignment parallel to or perpendicular to the street centerline to the extent possible. Local service lines shall be buried a minimum of 24 inches. Trunk lines and fibre optic lines shall be buried at a minimum depth of 36 inches. Any line passing under a city street shall be buried at a minimum of 36 inches below the street surface.

2.7.5. Alignment and grade—Underground electric transmission lines.

Electric transmission lines buried in the city right-of-way shall be laid in a straight alignment parallel to or perpendicular to the street centerline to the extent possible. Electric transmission lines shall be buried at a minimum depth of 36 inches.

2.8. Trench widths and pipe clearances.

Trenches shall be excavated to a width which will provide adequate working space and pipe clearances for proper pipe installation, jointing and embedment. However, the maximum trench bottom width shall be nominal inside pipe diameter plus 24 inches.

Minimum trench widths shall be such as to give minimum of six-inch clearance between trench walls and exterior of pipe for water and sewer mains. Minimum trench width for natural gas pipe lines, conduit for electrical and telecommunication cables, and fibre optic lines shall be as specified by the engineer of record for the utility installing such facilities.

The stipulated minimum clearances are not minimum average clearances, but are minimum

clear distances which will be permitted between the pipe as laid and any part, projection or point of rock, shale, stone or boulder.

Where, for any reason, the width of the lower portion of the trench as excavated at any point exceeds the maximum permitted, either pipe of adequate strength, or special pipe embedment, as required by loading conditions and as determined by the engineer, shall be furnished and installed by and at the expense of the permit holder.

2.9. Mechanical excavation.

Mechanical equipment used for trench excavation shall be of a type, design, and construction, and shall be so operated, that the rough trench excavation bottom elevation can be controlled, that uniform trench widths and vertical side walls are obtained at least from an elevation one foot above the top of the installed pipe to the bottom of the trench, and that the trench alignment is such that the pipe when accurately laid to specified alignment will be centered in the trench with adequate clearance between the pipe and side walls of the trench. Undercutting of the trench side wall to obtain clearance will not be permitted.

2.10. Subgrade preparation.

Except where otherwise required, pipe trenches shall be excavated below pipe subgrade elevations, as required to provide for the installation of granular fill pipe foundation material.

Whenever required by soft foundations, the permit holder shall excavate to such depth below grade as necessary and the trench bottom shall be brought to grade with granular fill.

Bell holes shall provide adequate clearance for the tools and methods used in installing the pipe. No part of any bell or coupling shall be in contact with the trench bottom, trench walls or granular fill when the pipe is jointed.

2.11. Pipe embedment.

Granular fill material shall be used as shown on the detail plans. Granular fill may be crushed rock or gravel, and shall meet the requirements for type 2 aggregate for base, gradation b, Missouri Standard Specifications for Highway Construction. For water mains the granular fill shall be placed under and around the pipe up to a level halfway between the center of the pipe (spring line) and the top of the pipe barrel. For sewer lines granular fill shall be placed under and around the pipe up to an elevation at least 12 inches above the barrel of the pipe. Natural gas lines may be directly bedded, without granular fill, if so directed by the engineer of record for the installing natural gas utility. Granular fill material shall be placed in a manner as to provide uniform and continuous support and shall not disturb alignment of the pipe during placement.

Succeeding layers of backfill above those described shall be placed as described in the following sections.

2.12. Backfill.

2.12.1. Ordinary backfill.

There shall be no ordinary backfill in this work.

2.12.2. Ninety percent compacted backfill.

Ninety percent compaction will be required where the line passes under lawns, pasture, and within the street rights-of-way.

The average density of the trench backfill shall be 90 percent of maximum density. Material shall be placed in lifts as required for adequate compaction with variations in lift thickness depending on soil and on method of compaction. Completed backfill shall have no less than 90 percent density in the top 2.5 feet in backfill, excluding the top few inches to be used as seed bed or for bedding sod.

Compaction may be by hand tamping, tamping machine, or other methods approved by the engineer. The permit holder will prepare test pits for sampling and testing and evaluation of compaction procedures.

2.12.3. Ninety-five percent compacted backfill.

Ninety-five percent compaction will typically be required under streets, driveways, and walkways.

Placement of material and compaction for 95 percent compacted backfill shall be as described

above for 90 percent compacted backfill except a minimum of 95 percent of maximum density must be maintained throughout the backfill.

2.12.4. Standard compaction and field density tests.

Wherever the terms "____% of maximum density" or "optimum moisture" are used, maximum density and optimum moisture shall be determined by the standard compaction test as defined by ASTM D698.

Field density test: Field density shall be obtained using the sand cone method (ASTM D1556), by the balloon method (ASTM D2167), or nuclear density gauge (ASTM D2922). The calculated density obtained in this test is divided by the maximum density as determined by the standard compaction test to determine the percent compaction obtained.

2.12.5. Responsibility of permit holder for backfill settlement.

Where 90 percent and 95 percent compaction is called for, the permit holder shall be responsible financially, and otherwise, for a period of two year after completion of work, for:

All settlement of trench and other backfill which may occur from time of original backfilling;

The refilling and repair of all backfill settlement and the repair or replacement to the original or a better condition of all pavement, top surfacing, driveways, walks, surface structures, utilities, drainage facilities, and sod which have been damaged as a result of backfill settlement or which have been removed or destroyed in connection with backfill replacement operations; and

All damage claims or court actions against the city for any damage directly or indirectly caused by backfill settlement.

The permit holder shall make, or cause to be made, all necessary backfill replacements, and repairs or replacements appurtenant thereto, within 30 days after due notification by the engineer or city.

2.13. Drainage maintenance.

Trenches across roadways or driveways adjacent to drainage ditches of watercourses shall not be backfilled prior to the completion of backfilling of the trench on the upstream side of the roadway to prevent the impounding of water after the pipe has been laid. Bridges and other temporary structures required to maintain traffic across such unfilled trenches shall be constructed and maintained by the permit holder. Backfilling shall be done so that water will not accumulate in unfilled or partially filled trenches. All material deposited in roadway ditches or other watercourses crossed by the line of trench shall be removed immediately after backfilling is completed and the section grades and contours of ditches or watercourses shall be restored to their original condition. Surface drainage shall not be obstructed longer than necessary.

2.14. Disposal of excess excavated material.

All excess excavated materials shall be disposed of away from the site of the work. The permit holder shall be responsible for locating areas for disposal of such materials.

Excavated rock in excess of the amount permitted to be and actually installed in trench backfill, junk, and debris encountered in excavation work, and other similar waste material shall be disposed of away from the site of the work.

DIVISION 3. RESTORATION OF SURFACE

4.1. General.

The permit holder shall restore all surfaces equal to or better than its original condition unless otherwise specified. Restoration includes pavement, sidewalks, alleys, lawns, etc.

4.2. Seeding, fertilizing and mulching.

Seeding and fertilizing is required where any utility excavation crosses established lawns, pasture land or rights-of-way of the city or in other areas regularly grassed and mowed.

After shaping and dressing of areas to be seeded have been completed, a commercial fertilizer, grade 10-10-10, shall be applied at a rate of not less than 1,000 pounds per acre. The area shall be prepared to receive the seed mixture by using a disc spiker or other suitable implement. Seed

shall then be spread at the specified rate by drill, by hand seeder, by brillion seeder, or by other approved seeders. Seeding shall not be done during windy weather, or when the ground is frozen, muddy or otherwise in a nontillable condition.

An established grass cover shall be provided on all areas requiring seeding. Irrigation, mulching, mowing and any other operation necessary to provide an acceptable grass cover shall be provided by the permit holder at no additional cost to the city.

Seed shall be applied at the rate of 80 pounds per acre. The seed shall be composed of a mixture of 40 percent blue grass, 40 percent creeping fescue, 20 percent perennial rye grass. Seeded areas shall be mulched with straw at a rate of 1.5 tons per acre.

The permit holder, at no additional cost to the city, may provide sod as specified herein in lieu of seeding in any or all areas required to be seeded.

4.3. Street, driveway, alley and sidewalk repairs.

4.3.1. Streets, paved alleys, and curb, will be repaired using the provisions found in section 32-36. Driveways and sidewalks will be repaired in accordance with city codes and ordinances.

4.3.2. Concrete, asphaltic concrete and other asphaltic surfaces; all materials used shall conform to city specifications for such use. (See section 32-36.)

All pavement is to be saw cut prior to removal. Repairs to streets, driveways, and alleys disturbed by work in city rights-of-way are to be made as follows:

a. New pavement shall have a width of at least 12 inches greater than the trench width. Each repair area in concrete or asphalt streets shall be first cut on each side for the full depth with a concrete saw. The material shall be removed so that no damage occurs to the surrounding pavement. If any damage occurs to the surrounding pavement, then the damaged areas will be removed.

b. For concrete pavements, the concrete thickness of the repair shall be at least eight inches. Reinforcement shall be placed with no. 4 bars at 12 inches o.c., transverse and a minimum of three no. 4 bars longitudinal. Concrete used for repair shall meet Missouri Standard Specifications for Highway Construction for Pavement Concrete (501.2.2) and shall have a minimum cement content of 6.5 bags per cubic yard, a maximum slump of 2½ inches, and a minimum compressive strength of 4,000 psi at 28 days. Concrete repairs will have a minimum of an eight-inch compacted rock subbase.

c. For full depth asphaltic concrete pavements, the asphalt thickness of the repair shall be at least 12 inches. Replace the pavement with hot-mix asphalt and compact thoroughly in lifts not to exceed four inches each. Hot-mix asphalt shall be of a commercial mix design equivalent to Missouri Standard Specification type Bp-1. Asphalt repairs will have a minimum of an eight-inch compacted rock subbase.

d. For other asphalt surfaces, the thickness shall be at least ten inches, consisting of eight inches of rolled stone base (MoDOT Type 1 or Type 3) compacted to 100 percent of maximum dry density, and four inches of thoroughly compacted bituminous surfacing layer consisting of an approved commercial asphalt-aggregate mixture (cold-mix).

e. The top of all pavement repairs shall be flush with the existing pavement.

f. Curbs and gutters to be replaced as required to match existing infrastructure to the extent possible. Stormwater flow lines must be maintained. Curbs and gutters are to be constructed of the minimum pavement concrete (6.5 bag mix).

g. Compacted subgrade for all pavement types and curb shall be six inches minimum and 95 percent of the standard maximum density. See section 32-36 for details.

h. The city will only maintain rock alleys if they serve multiple residence driveways or city utilities where the city needs access. Alleys used for utility rights-of-way will not be maintained by the city unless city access is required. The city will not maintain alleys for

the sole purpose of property owner access. If the property owners wish to rock the alleys for access, they must receive permission from the public works department. Paving alleys outside the city business district is not allowed. The city does not remove snow from alleys unless city access is requires for utilities.

4.3.3. Sidewalks shall be replaced over the entire width and to the nearest joints. Sidewalk design shall meet or exceed the specifications in section 32-29.

4.3.4. Brick street repair. Streets with exposed brick surfaces shall not be saw cut. Brick surface will be removed by hand to the extent required to prevent damage during excavation. Pavers shall be salvaged, and reused for final repair. Pavers not salvaged shall be replaced at the permit holder's expense. Brick streets shall first be repaired as concrete streets, with the surface of the concrete held six inches below the finished brick surface. A two-inch bed of masonry sand shall be placed on the cured concrete, and bricks shall be re-laid, by hand, in a pattern matching the street surface. Clean masons sand shall be swept into all joints.

4.3.5. All work performed and materials used by the contractor or other entities will to be free of defects, settling, or problems and warrantied for a period of two years. Any work or material that is not in compliance with city ordinances will be removed, replaced, and warrantied in accordance with all applicable ordinances. If problems appear within two years from acceptance by the city engineer the contractor is liable for the repairs.

DIVISION 4. SEPARATION OF WATER MAINS, SANITARY SEWERS AND STORM SEWERS

6.1. Parallel installation.

Water mains shall be laid at least ten feet horizontally from any existing or proposed sewer. The distance shall be measured edge to edge.

6.2. Crossings.

Water mains crossing sewers shall be laid to provide a minimum vertical clear distance of 18 inches between the outside of the water main and the outside of the sewer. This shall be the case where the water main is either above or below the sewer. At crossings, the full length of water pipe shall be located so both joints will be as far from the sewer as possible.

6.3. Exception.

The state department of natural resources must specifically approve any variance from the requirements of sections 6.1 and 6.2 when it is impossible to obtain the specified separation distances. The engineer shall request any such variance after all other remedies have been evaluated.

6.4. Sewer manholes.

No water line shall be located closer than ten feet to any part of a sewer manhole.

Special requirements:

(a) The city is to be included as an additional insured on both the comprehensive general, business, auto liability, and builders' risk policies.

(b) An appropriate hold harmless clause shall be included.

(c) Current, valid insurance policies meeting the requirement herein identified shall be maintained during the duration of the named project. Renewal certificates or cancellation notices shall be sent to the city 30 days prior to any expiration date.

(d) It shall be the responsibility of the contractor to ensure that all subcontractors comply with the same insurance requirements that the contractor is required to meet.

(e) Certificates of insurance meeting the required insurance provisions shall be forwarded to the office of risk management.
(Code 1989, § 21-57)

Secs. 32-75—32-136. Reserved.

DIVISION 5. SMALL CELL COLLOCATION

Sec. 32-137. Applicability.

To the extent permitted by law, this division shall apply to all persons desiring to construct, operate, or maintain small wireless facilities within the city.

Sec. 32-138. Definitions and usage.

For the purposes of this division, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Unless otherwise expressly stated or contrary to the context, terms, phrases, words, and abbreviations not defined herein shall be given the meaning set forth in RSMo §§ 67.5110—67.5121, and if not defined therein, their common and ordinary meaning.

Antenna, means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes, means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to such codes enacted to prevent physical property damage or reasonably foreseeable injury to persons.

Applicant, means any person who submits an application and is a wireless provider.

Application, means a request submitted by an applicant to the city for a permit to collocate small wireless facilities on a utility pole or wireless support structure, or to approve the installation, modification, or replacement of a utility pole.

City utility pole, means a utility pole, as defined below, owned, managed, or operated by or on behalf of the city.

Collocate or *collocation,* means to install, mount, maintain, modify, operate, or replace small wireless facilities on or immediately adjacent to a wireless support structure or utility pole, provided that the small wireless facility antenna is located on the wireless support structure or utility pole.

Decorative pole, means a city utility pole that is specially designed and placed for aesthetic purposes.

Fee, means a one-time, nonrecurring charge.

Historic district, means a group of buildings, properties, or sites that are either listed in the National Register of Historic Places or formally determined eligible for listing by the keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 CFR part 1, appendix C, or are otherwise located in a district made subject to special design standards adopted by a local ordinance or under state law as of January 1, 2018, or subsequently enacted for new developments.

Micro-wireless facility, means a small wireless facility that meets the following qualifications:

(1) Is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and

(2) Any exterior antenna no longer than 11 inches.

Rate, means a recurring charge.

Right-of-way, means the area on, below, or above a public roadway, highway, street, sidewalk, alley, or similar property used for public travel, but not including a federal interstate highway, railroad right-of-way, or private easement.

Small wireless facility, means a wireless facility that meets both of the following qualifications:

(1) Each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

(2) All other equipment associated with the wireless facility, whether ground or pole mounted, is cumulatively no more than 28 cubic feet in volume, provided that no single piece of equipment on the utility pole shall exceed nine cubic feet in volume; and no single piece of ground mounted equipment shall exceed 15 cubic feet in volume, exclusive of equipment required by an electric utility or municipal electric utility to power the small wireless facility. The following types of associated ancillary equipment shall not be included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box,

grounding equipment, power transfer switch, cut-off switch, and vertical cable runs and related conduit for the connection of power and other services.

Small wireless facility permit, means a written authorization from a designated city official required by the city to collocate small wireless facilities in or outside the right-of-way, or to install, replace, maintain or operate a utility pole inside the right-of-way for any purpose.

Technically feasible, means by virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a reduction in the functionality of the small wireless facility.

Utility pole, means a pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities.

Wireless facility, means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications and radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include:

(1) The structure or improvements on, under, or within which the equipment is collocated;

(2) Coaxial or fiber-optic cable between wireless support structures or utility poles;

(3) Coaxial or fiber-optic cable not directly associated with a particular small wireless facility; or

(4) A wireline backhaul facility.

Wireless infrastructure provider, means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment or wireless facilities but that is not a wireless services provider.

Wireless provider, means a wireless infrastructure provider or a wireless services provider.

Wireless services, means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider, means a person who provides wireless services.

Wireless support structure, an existing structure, such as a monopole or tower, whether guyed or self-supporting, designed to support or capable of supporting wireless facilities; an existing or proposed billboard; an existing or proposed building; or other existing or proposed structure capable of supporting wireless facilities, other than a structure designed solely for the collocation of small wireless facilities. Such term shall not include a utility pole.

Wireline backhaul facility, means a physical transmission path, all or part of which is within the right-of-way, used for the transport of communication data by wire from a wireless facility to a network.

Sec. 32-139. General standards.

(a) Neither the city, nor any person owning, managing, or controlling city utility poles, shall enter into an exclusive arrangement with any person for use or management of the right-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, management, or replacement of city utility poles within the right-of-way, or for the right to attach to such city utility poles within the right-of-way.

(b) The city, in applying the provisions of this division, will act in a competitively neutral manner with regard to other users of the right-of-way.

(c) Nothing in this division limits the ability of the city to require an applicant to obtain one or more permits of general applicability that do not apply exclusively to wireless facilities in addition to the permit required by this division in order to collocate a small wireless facility or install a new, modified, or replacement utility pole associated with a small wireless facility.

(d) The city may require a permit under applicable codes, existing city ordinances, or this division, with reasonable conditions, for work in a right-of-way that will involve excavation, affect traffic patterns, obstruct traffic in the right-of-way, or materially impede the use of a sidewalk.

(e) A small wireless facility must comply with reasonable, objective, and cost-effective concealment or safety requirements determined by the city.

(f) Subject to section 21-61(h), and except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4) of the Federal Communications Commission rules, the city may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures, published in advance, for small wireless facilities or utility poles placed in a historic district. Any such design or concealment measures shall not have the effect of prohibiting any wireless provider's technology, nor shall any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

(g) Right-of-way users, upon adequate notice and at the facility owner's own expense, shall relocate facilities as may be needed in the interest of public safety and convenience.

(h) Except as otherwise provided in this division and applicable law, in reviewing applications for small wireless facilities, wireless support structures and utility poles, the city will exercise zoning, land use, planning, and permitting authority within its territorial boundaries.

(i) Nothing in this division shall be interpreted to impose any new requirements on cable providers for the provision of such service.

(j) Small wireless facilities or utility poles constructed or operational before August 28, 2018, which were approved by the city by permit or agreement may remain installed and be operated under the requirements of this division.

(k) Small cell collocation equipment mounted on to structures shall not exceed the weight limits of said structure in which said equipment is being mounted to.

Sec. 32-140. Permitting provisions.

(a) Permit requirements—Inside the right-of-way. Any person desiring to collocate small wireless facilities, or to install, replace, maintain or operate a utility pole, inside the right-of-way must first apply for and obtain a permit, in addition to any other required permit, license, or authorization that is generally applicable and does not apply exclusively to wireless facilities.

(1) The collocation of small wireless facilities and the installation, maintenance, modification, operation, and replacement of utility poles along, across, upon, and under the right-of-way is not subject to zoning review or approval; except that the placement of new or modified utility poles in the right-of-way in areas zoned single-family residential or as historic as of August 28, 2018, remain subject to any applicable zoning requirements that are consistent with RSMo §§ 67.5090 to 67.5103.

(2) Small wireless facilities and utility poles shall be installed and maintained so as not to obstruct or hinder the usual travel, including pedestrian travel, or public safety on the right-of-way or obstruct the legal use of the right-of-way by the city or other authorized right-of-way users.

(3) A new, replacement, or modified utility pole installed in the right-of-way shall not be subject to zoning requirements so long as the utility pole does not exceed the greater of ten feet in height above the tallest existing utility pole in place as of January 1, 2019 located within 500 feet of the new utility pole in the same right-of-way, or 50 feet above ground level. A

new, modified, or replacement utility pole that exceeds these height limits shall be subject to applicable city zoning requirements that apply to other utility poles, and that are consistent with RSMo §§ 67.5090 to 67.5103.

(4) New small wireless facilities in the right-of-way shall not extend more than ten feet above an existing utility pole in place as of August 28, 2018.

(5) Small wireless facilities on a new utility pole shall not extend above the height permitted for a new utility pole in subsection (3) of this section.

(6) A wireless provider shall be permitted to replace decorative poles when necessary to collocate a small wireless facility, but any replacement pole shall reasonably conform to the design aesthetics of the decorative pole or poles being replaced. The term "reasonably conform" as used herein, shall mean that the design aesthetics of the replacement pole shall be as nearly identical to the decorative pole replaced as is feasible. The city engineer is authorized to determine if the replacement pole reasonably conforms, based upon the reasonable objective design standards published in advance by the city.

(7) The city may require replacement of a city utility pole that is proposed to be used for a collocation on a nondiscriminatory basis for reasons of safety and reliability, including a demonstration that the collocation would make the city utility pole structurally unsound.

(b) Permit requirements—Outside the right-of-way.

(1) The collocation of small wireless facilities in or on property not zoned primarily for single-family residential use is not subject to zoning review or approval.

(2) The city will allow collocation of small wireless facilities on city wireless support structures and city utility poles that are located on city property outside the right-of-way to the same extent, if any, that it allows access to such structures for other commercial projects or uses. Any such collocations shall be subject to reasonable and nondiscriminatory rates, fees, and terms as provided in an agreement between the city and the wireless provider, and not otherwise governed by this division.

(3) The city shall not enter into an exclusive agreement with a wireless provider concerning city utility poles or city wireless support structures that are located on city property outside the right-of-way, including stadiums and enclosed arenas, unless the agreement meets the following requirements:

a. The wireless provider provides service using a shared network of wireless facilities that it makes available for access by other wireless providers on reasonable and nondiscriminatory rates and terms that shall include use of the entire shared network, as to itself, an affiliate, or any other entity; or

b. The wireless provider allows other wireless providers to collocate small wireless facilities on reasonable and nondiscriminatory rates and terms, as to itself, an affiliate, or any other entity.

(c) Permit process for an application seeking to construct small wireless facilities in or outside the right-of-way, or to install, replace, maintain or operate a utility pole inside the right-of-way.

(1) An applicant seeking to collocate small wireless facilities in or outside the right-of-way, or to install, replace, maintain or operate a utility pole inside the right-of-way, must first submit an application for a permit to the city engineer. The city engineer shall design and make available to applicants a standard application form, consistent with the provisions of this division which all applicants must use in order to accomplish the purposes of this division. Except for the require-

ments in subsection (2)(b) of this section, an applicant shall not be required to provide more information to obtain a permit under this division than other communications service providers that are not wireless providers.

(2) An application for a permit shall include the following:

a. Construction and engineering drawings which demonstrate compliance with the criteria in section 21-61(f);

b. An attestation that the small wireless facilities comply with the volumetric limitations in the definition of small wireless facility;

c. Information on the height of any new, replacement, or modified utility pole;

d. Applicable indemnity, insurance, performance bond information required in subsection (2)f of this section;

e. An applicant that is not a wireless services provider must provide evidence of agreements or plans demonstrating that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the city and the applicant agree to extend this period or if the applicant notifies the city the delay is caused by lack of commercial power or communications transport facilities. An applicant that is a wireless services provider must provide this information by attestation;

f. Plans and detailed cost estimates for any make-ready work as needed. The applicant shall be solely responsible for the cost of any make-ready work;

g. Projected commencement and termination dates for the permit, or if such dates are unknown at the time the permit is issued, a provision requiring the permit holder to provide the city engineer with reasonable advance notice of such dates once they are determined.

(d) Fees and rates. Each such application shall be accompanied by payment of fees as designated in the city fee schedule.

(1) General:

a. Any fees collected pursuant to this subsection will be used only to reimburse the city for its actual incurred costs and will not be used to generate revenue to the city above such costs.

b. The city may not require or accept in-kind services in lieu of any fee.

c. The rates to collocate on city utility poles shall be nondiscriminatory regardless of the services provided by the collocating applicant.

(2) Application fee.

a. The total fee for an application for the collocation of a small wireless facility on an existing city utility pole, as allowed by state statute, is designated in the city fee schedule.

b. An applicant filing a consolidated application shall pay a fee per small wireless facility included in the consolidated application, as allowed by state statute, and designated in the city fee schedule.

c. The total fee for an application for the installation, modification, or replacement of a utility pole and the collocation of an associated small wireless facility, as allowed by state statute, is designated in the city fee schedule.

(3) Collocation rate. The rate per year for collocation of a small wireless facility to a city utility pole, as allowed by state statute, is designated in the city fee schedule.

(4) Right-of-way permit fee. The total fee for a right-of-way permit associated with the

installation of small wireless facilities in the right-of-way is designated in the city fee schedule.

(e) Timing for processing of an application.

(1) Within 15 days of receiving an application, the city shall determine and notify the applicant in writing whether the application is complete. If an application is incomplete, the city shall specifically identify the missing information in writing. The processing deadline in subsection (2) of this section is tolled from the time the city sends the notice of incompleteness to the time the applicant provides the missing information. That processing deadline may also be tolled by agreement of the applicant and the city.

(2) The city shall process and approve or deny an application for collocation of a small wireless facility within 45 days of receipt of the application. The application shall be deemed approved if not approved or denied within this 45 day period.

(3) The city shall process and approve or deny an application for installation of a new, modified, or replacement utility pole associated with a small wireless facility within 60 days of receipt of the application. The application shall be deemed approved if not approved or denied within this 60-day period.

(4) An applicant may file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities.

a. An application may include up to 20 separate small wireless facilities: provided that they are for the same or materially same design of small wireless facility being collocated on the same or materially the same type of utility pole or wireless support structure, and geographically proximate. The application shall provide information sufficient for the city engineer to determine whether the applicant has met the requirements of this subsection. The city engineer shall have discretion to determine whether the application meets the requirements of this subsection.

b. If the city receives individual applications for approval of more than 50 small wireless facilities or consolidated applications for approval of more than 75 small wireless facilities within a 14 day period, whether from a single applicant or multiple applicants, the city may, upon its own request, obtain an automatic 30 day extension for any additional collocation or replacement or installation application submitted during that 14 day period or in the 14 day period immediately following the prior 14 day period. The city will promptly communicate its request to each and any affected applicant.

c. The denial of one or more small wireless facilities in a consolidated application shall not delay processing or constitute a basis for denial of any other small wireless facilities in the same consolidated application or the consolidated application as a whole.

(5) The city shall provide a good faith estimate for any make-ready work necessary to enable a city utility pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate and advance payment, if required, by the applicant.

(6) An application that is not acted on within the specified time period is deemed approved.

(7) For any application denied:

a. The city shall document the complete basis for a denial in writing, and send the documentation to the applicant on or before the day the city denies the application.

b. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paving an additional application fee.

c. The city shall approve or deny the revised application within 30 days. Any subsequent review shall be limited to the deficiencies cited in the denial.

(8) The city will not institute, either expressly or de facto, a moratorium on filing, receiving, or processing applications or issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles to support small wireless facilities. If doing so would be consistent with 47 U.S.C. § 253(a), particularly as interpreted by the FCC's Declaratory Ruling adopted on August 2, 2018 (FCC 18-111), the city may institute a temporary moratorium on applications for small wireless facilities and the collocation thereof for no more than 30 days in the event of a major and protracted staffing shortage that reduces the number of personnel necessary to receive, review, process, and approve or deny applications for the collocation of small wireless facilities by more than 50 percent.

(f) Denial of an application. An application for a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole otherwise meeting the requirements of subsections (4)a.1 or (4)b.1 of this section may be denied if the action proposed in the application could reasonably be expected to:

(1) Materially interfere with the safe operation of traffic control equipment or city-owned communications equipment;

(2) Materially interfere with sight lines or clear zones for transportation, pedestrians, or non-motorized vehicles;

(3) Materially interfere with compliance with the Americans with Disabilities Act, or similar federal or state standards regarding pedestrian access or movement;

(4) Materially obstruct or hinder the usual travel or public safety on the right-of-way;

(5) Materially obstruct the legal use of the right-of-way by the city, utility, or other third party;

(6) Fail to comply with applicable codes, including nationally recognized engineering standards for utility poles or wireless support structures;

(7) Fail to comply with the reasonably objective and documented aesthetics of a decorative pole and the applicant does not agree to pay to match the applicable decorative elements;

(8) Fail to comply with reasonable and nondiscriminatory undergrounding requirements contained in city ordinances as of January 1, 2018, or subsequently enacted for new developments, that require all utility facilities in the area to be placed underground and prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval, provided that such requirements include a waiver or other process of addressing requests to install such utility poles and do not prohibit the replacement or modification of existing utility poles consistent with applicable law or the provision of wireless services; or

(9) Any other reason not prohibited by applicable law.

(g) Approval of an application.

(1) The city engineer shall review each application for a permit and, upon determining that:

a. The applicant has submitted all necessary information;

b. There is no basis under subsection (4)g of this section to deny the application; and

c. The applicant has paid the appropriate fee, the city engineer shall issue the permit.

(2) If the city approves an application, the applicant is authorized to:

a. Undertake the installation or collocation;

b. Operate and maintain small wireless facilities and any associated utility pole covered by the permit for a period of not less than ten years, which shall be renewed for equivalent durations so long as they are in compliance with the criteria listed in subsection (4)f of this section.

(3) The city may approve a permit subject to a reservation to reclaim space on the utility pole, when and if needed, to meet the utility pole owner's core utility purpose or a documented city plan projected at the time of the application.

(h) No application required. No application is required for:

(1) Routine maintenance on previously permitted small wireless facilities;

(2) The replacement of small wireless facilities with small wireless facilities that are the same or smaller in size, weight, and height; or

(3) The installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between utility poles in compliance with applicable codes.

A person performing the permitted acts under this subsection may be required to provide the city with a description of any new equipment installed so that the city may maintain an accurate inventory of the small wireless facilities at a particular location.

Sec. 32-141. Construction standards.

(a) The construction, operation, maintenance, and repair of small wireless facilities shall be in accordance with applicable codes and relevant city ordinances pertaining to construction, operation, maintenance, and repair inside or outside the right-of-way.

(b) All small wireless facilities shall be installed and located with due regard for minimizing interference with the public and with other users of a right-of-way, including the city.

(c) An applicant shall not place small wireless facilities where they will damage or interfere with the use or operation of previously installed facilities, or obstruct or hinder the various utilities serving the residents and businesses in the city of their use of any right-of-way.

(d) Any and all rights-of-way disturbed or damaged during the construction of small wireless facilities shall be promptly repaired or replaced by the applicant to its functional equivalence as existed before the disturbance or damage.

(e) Any wireless infrastructure provider, contractor or subcontractor must be properly licensed under laws of the state and all applicable local ordinances.

(f) Each wireless infrastructure provider, contractor or subcontractor shall have the same obligations with respect to its work as wireless services provider would have hereunder and applicable law if the work were performed by the wireless services provider. The wireless services provider shall be responsible for ensuring that the work of wireless infrastructure providers, contractors or subcontractors is performed consistent with their permits and applicable law, and shall be responsible for promptly correcting any acts or omissions by a wireless infrastructure provider, contractor or subcontractor.

Sec. 32-142. Indemnity, insurance, performance bonds.

(a) *Indemnity.* Wireless providers shall indemnify and hold the city, its officers and employees harmless against any damage or

personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors.

(b) *Insurance.*

(1) As part of the permit process, a wireless provider must provide proof of liability insurance coverage against any damage or personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors. The wireless provider's liability insurance policy must name the city or its officers and employees as additional insureds.

(2) In the alternative, a wireless provider must demonstrate that it has in effect a comparable self-insurance program.

(c) *Performance bond.*

(1) As part of the permit process, a wireless provider must post a performance bond, as allowed by state statute, and designated in the city fee schedule.

(2) The purpose of the performance bond is to:

a. Provide for the removal of abandoned or improperly maintained small wireless facilities, including those that the city determines need to be removed to protect public health, safety, or welfare;

b. Restore the right-of-way in connection with removals of small wireless facilities from the right-of-way; and

c. Recoup rates or fees that have not been paid by a wireless provider in over 12 months, provided the wireless provider has been provided with reasonable notice from the city and has been given the opportunity to cure.

(3) Upon completion of the work associated with the small wireless facilities covered by the performance bond to the satisfaction of the city engineer, the city engineer shall eliminate the bond or reduce its amount after a time appropriate to determine whether the work performed was satisfactory, which time shall be established by the city engineer considering the nature of the work performed.

(4) Recovery by the city of any amounts under the performance bond or otherwise does not limit an applicant's duty to indemnify the city in any way, nor shall such recovery relieve an applicant of its obligations under a permit or reduce the amounts owed to the city other than by the amounts recovered by the city under the performance bond, or in any respect prevent the city from exercising any other right or remedy it may have.

(d) *Exemption.* Applicants that have at least $25,000,000.00 in assets in the state and do not have a history of permitting noncompliance within the city's jurisdiction shall be exempt from the insurance and bonding requirements otherwise required by this section. The city may require an applicant to provide proof by affidavit that its assets meet or exceed this requirement at the time of filing the application.

Sec. 32-143. Relocation of facilities.

Whenever, by reason of changes in the grade or widening of a street or in the location or manner of constructing a water pipe, drainage channel, sewer, or other city-owned underground or above ground structure, it is deemed necessary by the city, in the interest of public safety and convenience, to move, alter, or change the location of underground or above ground facilities of a wireless provider, the wireless provider shall relocate such facilities, on alternative right-of-way provided by the city, if available, upon adequate notice in writing by the city, without claim for reimbursement or damages against the city.

Secs. 32-144—32-164. Reserved.

ARTICLE IV. BUILDING NUMBERING

Sec. 32-165. Application of article.

All the business structures and dwellings situated within the corporate limits of the city shall be numbered in the manner and according to the plan or system described in this article.
(Code 1974, § 21-33; Code 1989, § 21-71)

Sec. 32-166. Initial or starting lines.

The initial or starting lines for numbering structures and dwellings shall be Washington and Franklin Streets; north and south from Washington Street and east and west from Franklin Street; and allowing 100 numbers for each block.
(Code 1974, § 21-34; Code 1989, § 21-72)

Sec. 32-167. Location of even and odd numbers.

In numbering structures and dwellings, the even numbers shall be put on the right side of the street and the odd numbers on the left, allowing not more than 27 feet for each number.
(Code 1974, § 21-35; Code 1989, § 21-73)

Sec. 32-168. Minimum height for figures.

The figures used in numbering structures or dwellings shall not be less than four inches in height.
(Code 1974, § 21-36; Code 1989, § 21-74; Ord. No. 12149, § 7, 3-16-2015)

Secs. 32-169—32-188. Reserved.

ARTICLE V. MOVING OF BUILDINGS AND STRUCTURES

Sec. 32-189. When certain structures may be moved.

No person shall move any house, building or structure of more than 12-foot width and 20-foot length along the streets or alleys of the city, except during the hours of 4:30 a.m. to 8:30 a.m. each and every day of the week, except Sunday, and 4:30 p.m. to 8:30 p.m. on Monday, Tuesday, Wednesday, Thursday and Saturday.
(Code 1974, § 21-37; Code 1989, § 21-91)

Sec. 32-190. Permit and fees; police chief to determine route; obtaining clearance from certain firms.

No person shall move any house, building or structure of more than 12-foot width and 20-foot length without obtaining, at least 72 hours in advance, a permit from the police chief to move the house, building or structure along the streets or alleys of the city during the hours set out in section 32-164, and, besides purchasing and obtaining the proper house mover's license, must pay a fee in the amount provided in the city's fee schedule for each house, dwelling or building structure of over 650 square feet to the city, and pay a fee in the amount provided in the city's fee schedule for each garage, shed or small building of less than 650 square feet to the city as well as provide proper warning devices or flares, proceed only with a police escort, and otherwise comply with all provisions of this article and chapter 12. The route by which the house, building or structure shall be moved along shall rest solely in the discretion of the police chief. The person moving the house, building or structure shall also advise all affected utility companies of the proposed moving route and obtain clearance from these firms to avoid any damage to their utility lines.
(Code 1974, § 21-38; Code 1989, § 21-92)

Sec. 32-191. Performance bonds.

Any person proposing to move a house, building or structure of more than 12-foot width and 20-foot length along the streets or alleys of the city shall post a performance bond of $2,500.00 for each structure of over 650 square feet to be moved, or post a performance bond of $1,000.00 for each structure of less than 650 square feet to be moved with the city clerk's office prior to obtaining a permit from the police chief to move the same. The bond so posted shall be for the purpose of paying any damages to any person who's personal, real or other property, including

the city, may be injured or damaged as a result of the moving of a house, building or structure along the streets or alleys of the city.
(Code 1974, § 21-39; Code 1989, § 21-93)

Secs. 32-192—32-212. Reserved.

ARTICLE VI. POLES AND WIRES

Sec. 32-213. Permit required to set poles on public rights-of-way, etc.

Utility poles may be set on the public rights-of-way or on the utility easements within the city by persons only after obtaining a permit therefor from the city engineer.
(Code 1974, § 18-1; Code 1989, § 21-111)

Sec. 32-214. Standards for poles; height of wires.

(a) Any pole permitted to be installed on any city right-of-way or easement shall be of sound timbers or of metal, not less than five inches in diameter at the upper and smaller end and uniform in size.

(b) No wires on any such poles shall be run at the height of less than 20 feet above the grade of the street.
(Code 1974, § 18-2; Code 1989, § 21-112)

Sec. 32-215. Raising or lowering wires upon request of house mover, etc.

The permit holder under this section shall, on the request of an authorized person moving a house or other bulky structure, remove, raise or lower wires as necessary to accommodate passage of the structure. The expense of such temporary removal, raising or lowering of wires shall be paid by the party requesting such raising or lowering of wires, and payment in advance may be required. Not less than 48 hours' advance notice shall be given for such temporary wire changes.
(Code 1974, § 18-3; Code 1989, § 21-113)

Sec. 32-216. Trimming of certain trees.

The right is hereby granted to all such persons mentioned in section 32-355 to trim trees, brush or hedges upon and overhanging the streets, alleys, sidewalks and public places of the city, so as to prevent such foliage from coming into contact with telephone/electrical wires and cables. All of such trimming shall be done in accordance with article VIII of this chapter.
(Code 1989, § 21-114)

Secs. 32-217—32-237. Reserved.

ARTICLE VII. SIDEWALKS

DIVISION 1. GENERALLY

Secs. 32-238—32-258. Reserved.

DIVISION 2. REPAIRS

Sec. 32-259. Notice to owner of property—Generally.

When any sidewalk within the city shall be and remain out of repair, it shall be the duty of the city codes department to notify the owner of the lot abutting such sidewalk, by a written or printed notice delivered to the owner of such lot in person, or by leaving a notice at the usual place of abode with some person of the family over the age of 15 years. Such notice shall describe the location where such sidewalk is out of repair with sufficient certainty to enable the owner to make the necessary repairs as required by this division.
(Code 1974, § 21-12; Code 1989, § 21-146)

Sec. 32-260. Notice to owner of property—Service.

The notice provided for in section 32-241 may be served by the police chief or any police officer employed by the city. Such service shall be as binding as though serviced by the city manager. Service of such notice on a nonresident owner may be made by registered mail with a return receipt request.
(Code 1974, § 21-13; Code 1989, § 21-147)

Sec. 32-261. Repairs by city; paying for cost of repairs.

If, after being notified in the manner designated in section 32-241, the owner does not, within 14 days from the date the notice was received, as shown by the return of the codes department, repair the sidewalk, then the codes department or any competent person appointed by the city council shall proceed to repair the same, keep an accurate account of the cost thereof and report the same to the city council. The 14-day period may be shortened by any length by the codes department if the damage/problems pose a safety hazard. Upon receipt of a statement of cost, the city council shall assess the costs of repair as a special tax against the lots abutting such repairs, and the city clerk shall prepare and issue a special tax bill therefor, to be paid to the city clerk, to the use and benefit of the city. Such bill shall bear interest at the rate of eight percent per annum after 30 days from the date of issuance, and any such tax bill so issued shall be a lien in favor of the city and against the lot or tract of land described in the same, for a period of five years from the date of issuance.
(Code 1974, § 21-14; Code 1989, § 21-148)

Secs. 32-262—32-282. Reserved.

DIVISION 3. CANOPIES

Sec. 32-283. Definitions.

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

Business district means that area commencing at the public square, and including the same, and extending one block east, south, west and north from such square.
(Code 1974, § 21-25; Code 1989, § 21-161)

Sec. 32-284. Construction authorized in downtown business district.

Effective January 1, 2020, sidewalk canopies, as specified in this division, are authorized to be constructed, erected and installed in the downtown business district of the city in conformance with improvements approved by the city.
(Code 1974, § 21-26; Code 1989, § 21-162)

Sec. 32-285. Upright support requirements.

The sidewalk canopy upright supports, authorized to be erected under this division prior to January 1, 2020, shall have a minimum exposed height of ten feet and be placed two feet from the outside sidewalk curb. Such supports shall be spaced not more than 24 feet apart, commencing two feet from the corner of the block. Snow weights must be considered during all design and construction. After January 1, 2020, supports will be allowed on a minimum basis and only if approved by the city.
(Code 1974, § 21-28; Code 1989, § 21-163)

Sec. 32-286. Roof overhang; reducing width of sidewalk.

The roof overhang of sidewalk canopies existing as of January 1, 2020, shall not extend beyond the outside curb of the sidewalk proposed to be covered. In the event the city should find it necessary to reduce the width of the sidewalk in the future for the general safety of the public and a smoother flow of traffic on the adjacent street thereto, then the roof overhang of the canopies so erected shall be required to be shortened, to extend only to the curb, and the upright supports relocated two feet from the curb, at no expense or cost to the city.
(Code 1974, § 21-29; Code 1989, § 21-164)

Sec. 32-287. Drainage from canopies.

Any drainage, rainwater, melted snow, etc., collected on the sidewalk canopies shall be disposed of in a safe manner. The design and operation of drains, etc., shall be the responsibility of the adjacent landowner and liability shall be in accordance with section 32-271.
(Code 1974, § 21-30; Code 1989, § 21-165)

Sec. 32-288. Responsibility for maintenance of canopies; repairs by city.

The maintenance and repairs of all canopies erected under the provisions of this division

shall be the sole responsibility of the owners of the adjacent buildings. On failure by the owner of an adjacent building to maintain and repair the canopy fronting the building, the city shall have the right to have the same maintained or repaired, and the costs incurred therefor shall be assessed to the building owner and the same shall constitute a lien on the adjacent real estate until the city has been reimbursed the cost incurred thereon. All canopies shall be kept in working order, free of excessive rust, weak points, structural failures, or unsafe or unsightly conditions. Canopies shall be painted or repainted when conditions are warranted by the city code department.
(Code 1974, § 21-31; Code 1989, § 21-166)

Sec. 32-289. Liability for damages, etc.

Any and all accidents, injuries or other damages, created or caused by the sidewalk canopies authorized by this division to passing pedestrians or motorists shall be the sole liability of the adjacent building owner, and the city is absolved of all liability therefor.
(Code 1974, § 21-32; Code 1989, § 21-167)

Secs. 32-290—32-310. Reserved.

ARTICLE VIII. LANDSCAPING

DIVISION 1. GENERALLY

Secs. 32-311—32-330. Reserved.

DIVISION 2. TREES

Subdivision I. In General

Sec. 32-331. Purpose and intent.

(a) It is the purpose and intent of this division to promote healthy tree practices throughout the city, and to protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants on city property and municipally owned rights-of-way within the city.

(b) It is the intent of the city council that the terms of this division shall be construed so as to promote:

(1) The planting, maintenance, restoration, and survival of desirable trees, shrubs, and other plants throughout the city; and

(2) An increase in the total number of trees in the city, both on private and public property;

(3) The protection of community residents from personal injury and property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, and other plants located on city property and municipally owned rights-of-way within the city;

(4) Walkability by encouraging the planting of street trees along sidewalks, which will provide a comfortable and enjoyable walking environment throughout the community; and

(5) Utilization of trees for stormwater management practices.

(Code 1989, § 13.5-22; Ord. No. 11249, § 4, 6-3-1996)

Sec. 32-332. Definitions.

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

City owned property means property within the city limits and property owned by the city, or implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, public easements, or other public purposes.

Park tree means trees, shrubs, bushes and all other woody vegetation in city owned public parks, or open space zones to which the public has free access as a park.

Property owner means the record owner or contract purchaser of any parcel of land.

Street trees means trees on land lying between property lines on either side of all streets, avenues, alleys and other rights-of-way within the city.
(Code 1989, § 13.5-23; Ord. No. 11249, § 5, 6-3-1996)

Sec. 32-333. Tree board.

The city lakes, parks and recreation commission shall act in an advisory capacity to the city council and city staff with regard to forestry matters.
(Code 1989, § 13.5-24; Ord. No. 11249, § 6, 6-3-1996)

Sec. 32-334. Permits.

No person, except an agent, employee or a contractor hired or authorized by the city, may perform any of the following without first obtaining a permit:

(1) Plant any tree or shrub with a mature height exceeding 30 inches above ground level, or place any container for trees, shrubs, or other plants on city owned property.

(2) Dig a tunnel or trench on city owned property where trees, shrubs, and other plants are affected.

(3) Cut down or cause to be removed any tree, shrub, or plant on city owned property, or rights-of-way.

(Code 1989, § 13.5-25; Ord. No. 11249, § 7, 6-3-1996)

Sec. 32-335. Public nuisances and abatement.

(a) The following items are hereby declared public nuisances under this division:

(1) Any dead or dying tree, shrub, or other plant, located on city owned property, or rights-of-way.

(2) Any tree, shrub, other plant or portion thereof, located on city owned property, or rights-of-way, which by reason of location or condition constitutes a danger to the health, safety, or welfare of the general public.

(3) Any tree, shrub or other plant or portion thereof, whether located on city owned property, or rights-of-way, or on private property, which may be determined to unreasonably obstruct the free passage of public pedestrian or public vehicular traffic or proper view of oncoming traffic or street signs.

(b) The officers, agents and employees of the city have the authority to enter onto private property wherein there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(c) The following are the prescribed means of abating public nuisances under this division:

(1) Any public nuisance under this division which is located on city owned property, or rights-of-way, shall be pruned, removed, or otherwise treated by the city in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.

(2) The city is empowered to cause the immediate abatement of any public nuisance, provided that the nuisance is determined by the city to constitute an imminent danger to the health, safety, or welfare of the general public.

(3) The city may abate the public nuisance on private property in the event, after written notice, the private property owner does not abate the public nuisance in a timely fashion.

(Code 1989, § 13.5-26; Ord. No. 11249, § 8, 6-3-1996)

Secs. 32-336—32-356. Reserved.

Subdivision II. Program Rules and Regulations

Sec. 32-357. Tree species to be planted.

The city shall develop, maintain, publicize, and amend as necessary a list of trees which may be planted in or on city owned property, including parks, streets and rights-of-way. The list of

trees shall be categorized into two sizes: large trees over 30 feet in height, and small trees under 30 feet in height.
(Code 1989, § 13.5-36; Ord. No. 11249, § 10(A), 6-3-1996)

Sec. 32-358. Spacing.

The spacing of street trees will be in accordance with the two species size classes and no trees should be planted closer together than the following: small trees, 20 feet; and large trees, 40 feet; except special plantings approved by the city.
(Code 1989, § 13.5-37; Ord. No. 11249, § 10(B), 6-3-1996)

Sec. 32-359. Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the two species size classes. No trees should be planted closer to any curb or sidewalk than the following: small trees, two feet; large trees, six feet.
(Code 1989, § 13.5-38; Ord. No. 11249, § 10(C), 6-3-1996)

Sec. 32-360. Distance from street corners and fire hydrants.

No street tree or shrub shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree or shrub shall be planted closer than ten feet to any fire hydrant.
(Code 1989, § 13.5-39; Ord. No. 11249, § 10(D), 6-3-1996)

Sec. 32-361. Utilities.

(a) Species listed as small trees in this subdivision may be planted under or within ten feet of any overhead utility wire.

(b) Locates must be called to determine the location of underground utilities before any tree is planted in the right-of-way. Any tree planted within five feet of an underground utility requires approval from the city. If any future work or repair to utilities requires the removal of trees, bushes, shrubs, or landscaping the city will not be held liable and replacement will be at the property owner's expense.
(Code 1989, § 13.5-40; Ord. No. 11249, § 10(E), 6-3-1996)

Sec. 32-362. Public tree care.

(a) The city shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, public grounds and rights-of-way, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The city may remove, or order to be removed, any tree on city property, or right-of-way, or part thereof, which is in an unsafe condition or which by any reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvement, or is affected with any injurious fungus, insect, or other pest. All tree pruning and removal will be done in accordance with the most current American National Standards Institute A300 Tree Shrub and Other Woody Plant Maintenance Standard Practices.
(Code 1989, § 13.5-41; Ord. No. 11249, § 10(F), 6-3-1996)

Sec. 32-363. Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property unless otherwise permitted by the city in writing. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the public works director.
(Code 1989, § 13.5-42; Ord. No. 11249, § 10(G), 6-3-1996)

Sec. 32-364. Corner clearance pruning.

At intersections without all-way stops, all corner lots shall provide a sight distance triangle in both directions of the corner, the short leg of which shall be 20 feet, and the long leg of which shall be 140 feet measured along the curbline or edge of the pavement. Such area shall be and remain free of all shrubbery, fences and other obstructions. City-approved street trees may be located in the sight distance triangle. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility, including traffic-control devices, signs or other traffic-control devices.
(Code 1989, § 13.5-43; Ord. No. 11249, § 10(H), 6-3-1996)

Sec. 32-365. Street and walkway obstructions.

The clearance of obstructions over streets and walkways shall be the responsibility of the abutting property owner. A clearance of eight feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets and alleys. Property owners are responsible for trees on their own property as well as trees on the public right-of-way that abuts their property.

Sec. 32-366. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
(Code 1989, § 13.5-44; Ord. No. 11249, § 10(I), 6-3-1996)

Sec. 32-367. Insect-infested or diseased tree removal on private property.

The city shall have the right to order the removal of any insect-infested or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city shall make every effort to work with the property owner to consider other options to satisfactorily abate diseased or damaged trees prior to removal.
(Code 1989, § 13.5-45; Ord. No. 11249, § 10(J), 6-3-1996)

Sec. 32-368. Right-of-way landscaping.

(a) No plants planted within the right-of-way shall exceed a height of one foot. The adjacent property owner responsible for the planting is also responsible for the maintenance and upkeep of the plants, including responsibility for the removal of weeds, dead plants and dead plant debris. Areas not planted must be mowed. Any grass removed to accommodate the plants must be replaced by the property owner.

(b) Any landscaping constructed, planted, or placed within a right-of-way will be removed by the adjacent property owner if utility, street, or city infrastructure work is required. It is the adjacent property owner's responsibility to remove the landscaping before the required work is completed. The city will remove obstacles in the right-of-way if the owner fails to do so prior to work beginning and will present the cost of the removals to the adjacent property owner. The city will make all efforts to notify the property owner, except in the case of an emergency, before work begins.

Chapter 33

RESERVED

Chapter 34

SUBDIVISION REGULATIONS

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ARTICLE I. IN GENERAL

Sec. 34-1. Purpose.

(a) The purpose of this chapter is to regulate the division of land within the city in order to promote the public health, safety, and general welfare. The platting of land is the first step in the process of urban development. The arrangement of land parcels in the community for residential, commercial and industrial uses and for streets, alleys, schools, parks, drainageways and utility easements will determine to a large degree the design, character and conditions in the urban area. The quality of the urban areas is of public interest. These regulations and standards for the platting of a subdividing of land for urban use are to make provision for adequate light, air, open space, drainage, traffic circulation, utilities and other needs to ensure the development and maintenance of a healthy, attractive and efficient community.

(b) These regulations are intended to:

(1) Guide the future growth and development of the city in accordance with the comprehensive plan, or other plan, in which has been adopted by the planning and zoning commission and approved by the city council;

(2) Provide neighborhood conservation and prevent the spread of urban blight;

(3) Protect, provide for and promote the public health, safety, convenience, comfort, morals, prosperity, and general welfare of the residents of the city;

(4) Establish a beneficial relationship between the uses of land and buildings, and the municipal street system; to require the proper location and design of streets and building lines; to minimize traffic congestion; and to make adequate provision for pedestrian traffic circulation; and

(5) Encourage and require the design and development of land that provides necessary public facilities and improvements including streets, facilities for storm drainage, water, sewage, school sites and park areas in accordance with city standards.

Sec. 34-2. Definitions.

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

Access means the way over which traffic moves to and/or from the property abutting such street or alley and the way over which traffic moves to and/or from a major street to a minor street or from a street to an alley.

Alley means a permanent service right-of-way which affords only a secondary means of access from such right-of-way to abutting property and not intended for general traffic circulation.

Area, lot, means the total area within the lot lines.

Block means an area of land entirely bounded by streets, highways, barriers, or rights-of-way (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or right-of-way) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

Building line means a line on a plat between which line and street, alley or lot line no buildings or structures may be erected.

Codes and planning director shall have the same meaning as code enforcement director, zoning administrator, building official, floodplain manager, and plat official.

Comprehensive plan means the city's major plan of land use and community services planned for the development of a city and adopted as the official plan by the city planning and zoning commission and the city council.

Construction means installation of streets, curb and gutter, sidewalks and all utilities. The term "construction" means grading and compaction over the entire length of the street, includ-

ing the concrete curb area, with completion of all street surfaces and sidewalks. See chapter 32 for construction requirements.

Cul-de-sac means a local residential or commercial street having one end open to traffic and being permanently or temporarily terminated by a vehicle turnaround.

Easement means a grant by the property owner of the use of land to the public, a corporation, or persons for specific purposes.

Gradient means the ascending or descending inclination of a street or other slope.

Lot means an area of land within a subdivision marked by the subdivider on the plat as a numbered, lettered, or other identified area to be offered for sale, dedication, or development.

Lot, corner, means a lot abutting upon two or more streets at their intersection and which shall be deemed to front on that street on which it has its least dimension.

Lot, interior, means a lot other than a corner lot.

Lot, key, means interior lot on the end of a block.

Lot lines means the lines bounding a lot.

Master street plan means a plan, part of the comprehensive plan or separated into its own plan, which sets forth the general location, alignment, dimensions, and identification and classification of existing and proposed streets and their rights-of-way.

Planned development means a tract of land which is developed as a unit under single ownership or control which may include two or more main or principal structures.

Planning and zoning commission means the city planning and zoning commission.

Plat means a plan or layout showing the subdivision of land into lots and/or streets.

Plat officer means the person designated by the city as administrator of this chapter.

Right-of-way means the entire dedicated tract or strip of land that is to be used by the public for circulation or service.

Sanitary sewer means a constructed conduit for the collection and carrying of liquid and solid wastes, other than stormwater, to a sewage treatment plant.

Sidewalk means that paved portion of the right-of-way designated and intended for the movement and use of pedestrian traffic.

Slope means the inclination of an earth bank expressed by stating the vertical distance in proportion to horizontal distance.

Storm sewer means a constructed conduit for the collection and carrying of surface water to a drainage course.

Street means a right-of-way dedicated to the public use, or a private right-of-way serving more than one ownership which provides principal vehicular and pedestrian access to adjacent properties and is intended for general traffic circulation.

Arterial street means a major street, highway or roadway designated as such on the adopted master street plan.

Collector street means a street which collects traffic from local streets and is designated as a collector street on the city's master street plan and may include the principal entrance streets of a residential development and streets for circulation within such development.

Cul-de-sac means a street having one end open to traffic and being permanently or temporarily terminated by a vehicle turnaround.

Frontage roads means a minor street which is parallel and adjacent to an arterial or collector street and provides access to abutting properties.

Local street means a minor street which is not designated as an arterial or collector street, or state or federal highway.

Subdivider means the owner of land proposed to be platted, subdivided or developed or their representative. Consent shall be required from the legal owner of the premises.

Subdivision.

(1) *Major subdivisions.*

a. The division of land into more than four lots; or

b. Any division of land into two or more lots if such division involves the construction and dedication of a public street or public infrastructure.

(2) *Minor subdivisions.* The division of land into not more than four lots, and not involving the dedication and construction of a public street. Minor subdivision processes shall not be repeated whereby land within the original plat, or lands contiguous to the original plat, which by repeating the minor subdivision process would allow the subdivider to gain relief from the major subdivision regulation contained herein.

(3) *Subdivision lot split.* The division of land previously platted as a part of a major subdivision, or as a pre-existing out lot, if such division does not involve the dedication and construction of any new public utilities (sewer and water), or the construction of any new public streets; and provided further, that such division does not change the street or block patterns as previously platted.

(4) *Lot combination.* Process whereby two or more previously platted lots are put together to form one larger lot. This process shall not change the block pattern as platted. A lot combination would be approved by a similar process as a subdivision in regard to city approval.

(Code 1989, § 22-1; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-3. Enforcement.

The city manager shall appoint the official responsible for the administration of this chapter. That person's title shall be the plat officer. No officer designated by the city manager as the plat officer under the provision of this chapter shall engage, either directly or indirectly, in the business of surveying, and no plat or subdivision shall be received for record, or have any validity which has been prepared by, or under the direction of, any such plat officer.

(Code 1989, § 22-2; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-4. Penalties.

(a) In case any map, plat, lot split or subdivision is recorded or attempted to be recorded, or any deed or deeds recorded conveying property according to such map, plat or subdivision, the proper authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful conveyance of the property or to restrain, correct or abate such violation to prevent the occupancy of any buildings or structures erected on the premises or to prevent any illegal act, conduct of business or use in or upon such premises.

(b) Whenever it shall come to the knowledge of the plat officer that any provisions of this chapter have been violated, it shall be the duty of the plat officer to notify the city attorney, or other appropriate city official, of this fact and that the official shall immediately take appropriate action and prosecute the same to final judgment against the person offending.

(c) The plat officer shall have the power to make such orders, requirements, decisions and determinations as are necessary to administratively enforce this chapter.

(Code 1989, § 22-3; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-5. Amendments.

This chapter may be amended in whole or in part by the city council in accordance with section RSMo 89.410, providing that no such amendment shall be adopted until a recommendation is made by the planning and zoning commission, and after a public hearing is held by the city council. Fifteen-days' notice of time and place of such hearings shall be published one time in at least one newspaper having general

circulation within the municipality. The provisions of the proposed amendment, setting forth the principal provisions of the proposed changes and a reference to the place or places where copies of the proposed amendment may be examined, shall be incorporated in the official notice.
(Code 1989, § 22-4; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007; Ord. No. 12244, 5-15-2017)

Sec. 34-6. Variance.

Where the subdivider can show that the strict application of a provision of this chapter would cause unnecessary hardship because of unusual topographical or other physical conditions peculiar to the site, the planning and zoning commission may recommend approval of a variance from such provisions as, in its opinion and for reasons set forth in its minutes, will not materially impair the intent thereof; subject, however, to approval of the city council.
(Code 1989, § 22-40; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Secs. 34-7—34-28. Reserved.

ARTICLE II. PROCEDURES

DIVISION 1. GENERALLY

Sec. 34-29. Application fees.

Application fees can be found in the fee schedule located on the city website.
(Code 1989, § 22-5; Ord. No. 11367, 2-1-1999)

Sec. 34-30. Building permits.

(a) *Major subdivision.*

(1) The city building inspector shall not issue building permits for any structure on a lot in a major subdivision for which a plat has not been approved and recorded in the manner prescribed herein. The city building inspector may issue building permits for any lot within a major subdivision in the following circumstances:

a. Whole phases of the subdivision en route to said lot must either be completed with required improvements at the time of building permit issuance; or

b. A satisfactory surety in the form of a performance bond, cash, escrow account or other accepted method by the city is provided to guarantee the installation of required improvements in each phase en route to said lot with a sunset of one year.

(2) In cases of evident hardship, inclement weather, etc., the building inspector may issue building permits on platted lots prior to construction of utilities. Occupancy of the structure for which building permits are issued for will not be allowed until utilities are completed and accepted by the city.

(b) *Minor subdivisions.* The city codes department shall not issue building permits for any structure on a lot in a minor subdivision for which utilities, if constructed, are in place and accepted by the city and a plat has not been approved and recorded in the manner prescribed herein. In cases of evident hardship, inclement weather, etc., the building inspector may issue building permits on platted lots prior to construction of utilities. Occupancy of the structure will not be allowed until utilities are completed and accepted by the city.

(c) *Subdivision lot splits.* The city codes department shall not issue building permits for any structure on a lot resulting from a subdivision lot split for which a field survey has not been approved and recorded in the manner prescribed herein.

(d) *Revision of plat.* With the exception of lot splits and minor subdivisions, no changes, erasures, modifications or revisions shall be made on any plat of a subdivision after approval has been given by the planning and zoning

commission and city council, unless the plat is first submitted to the planning and zoning commission and city council for their approval.
(Code 1989, § 22-6; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-31. Plat phasing and expiration.

(a) In the event that final plat has been approved by the city and required infrastructure is not completed within five years from the city council's approval, the developer must resubmit the original plat to the planning and zoning commission for approval. The city council, after report and recommendation from the city planning and zoning commission, may repeal or require revisions. These actions shall require a public hearing initiated by the city and will require an enacting ordinance.

(b) Larger plats shall be broken up into manageable phases to where required improvements outlined in this chapter and identified within each phase can be completed within a five-year timeframe. Required improvements within the first phase of the plat shall be completed within five years of the date of final plat approval by city council. Upon the date of the city's acceptance of required improvements within a subdivision phase, the subdivider will have five years to complete required infrastructure within the next planned phase. Extensions to the five-year deadline for a phase may be granted by city council after a recommendation by the planning and zoning commission. Phases shall be broken up into portions no less than 500 feet in length.

(c) Final platted non-developed subdivisions that exist prior to February 1, 1999, shall be developed within seven years from their final plat approval. If seven years has expired since the plat approval, the city shall notify the owner/developer of the subdivided land of their intent to review the plat. If, within 90 days of said notice, there has not been satisfactory arrangements between the city and owner regarding the development of the pre-existing platted subdivision, the city shall hold a public hearing to repeal the plat.
(Code 1989, § 22-7; Ord. No. 11367, 2-1-1999)

Secs. 34-32—34-50. Reserved.

DIVISION 2. MAJOR SUBDIVISIONS

Sec. 34-51. When applicable.

The procedures contained in this division are applicable to any division of land which falls within the definition of the term "major subdivision" contained in section 34-2.
(Code 1989, § 22-8; Ord. No. 11367, 2-1-1999)

Sec. 34-52. General requirements.

(a) No land shall be subdivided as a major subdivision and filed for record, nor any street laid out, nor any improvements made to the land, until the plat of the major subdivision shall have been certified to and approved by action as specified in this division.

(b) The layout of the proposed major subdivision shall be in conformity with the comprehensive plan and master street plan.

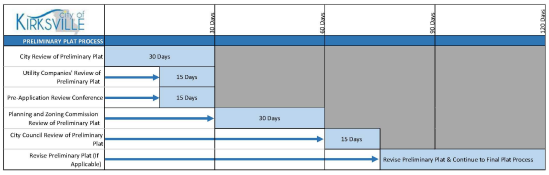
(c) No land shall be subdivided as a major subdivision for any use unless each subdivided lot is completely fronted along a platted or improved public street, except when a subdivided portion will be legally combined with an adjacent lot that has street frontage, or is approved by city council.

(d) In order to conserve time, effort and expense, the owner or subdivider shall consult with the plat officer and city engineer prior to the preparation of the preliminary plat of the subdivision. Requirements for streets, shopping centers, community facilities, sanitation, water supply and drainage, and relationship to other developments, existing and proposed, in the vicinity shall be analyzed in advance of the preparation of a preliminary plat.

(e) The preliminary and final plat shall be prepared by a professional engineer or landscape architect, a professional land planner or a land surveyor.
(Code 1989, § 22-9; Ord. No. 11367, 2-1-1999)

Sec. 34-53. Approval of the preliminary plat.

(a) Preliminary plat approval timeline is as follows:



(b) Four signed and sealed copies of the preliminary plat shall be submitted to the city code and planning office at least 30 days prior to the meeting at which it is to be considered.

(c) A developer contemplating the development of a new subdivision will request a pre-application review conference with the city subdivision review team. The subdivision review team shall consist of the public works director, the code enforcement director, the city engineer, the fire chief and the city planner. The city planner will advise other concerned city departments and entities of the proposed subdivision, requesting their review and comments.

(d) The developer shall submit copies of the preliminary plat to each public utility, including gas, electric, cable, and telephone. Proof of such delivery shall be submitted to the city. Each public utility shall have 15 days from the date of delivery in which to provide written comment to the city on the preliminary plat, together with any proposed alterations to public utility easements and rights-of-way.

(e) The planning and zoning commission, at the next regular meeting occurring 30 days or less after the preliminary plat is submitted, and all accompanying documents are filed, shall consider the plat. The commission shall arrive at a decision on the preliminary plat within 30 days of the first meeting, except the commission with the consent of the developer may extend the 30-day period.

(1) If approved by the commission or approved with conditions, the plat shall be sent to the city council together with any comments or conditions in writing for tentative approval and acceptance by the city;

(2) If the commission cannot reach a decision within the time period, the developer may proceed to subsection (f) of this section; or

(3) If disapproved, the commission shall provide a written statement to the developer stating the grounds for disapproval addressing:

a. Plat subdivision requirements;

b. Current zoning requirements;

c. The master street plan, as adopted;

d. The intent of the adopted city plan;

e. Other pertinent considerations.

(f) The city council shall review all preliminary plats after execution of one of the three options under subsection (e) of this section. The city council shall consider the preliminary plat and the comments and conditions of the commission and may tentatively approve the preliminary plat, tentatively approve the plat with conditions, or may disapprove the plat. Any vote of the city council to remove a recommended condition or approve a plat disapproved by the commission shall require two-thirds approval for passage. The tentatively approved plat constitutes an acceptance of the plat including rights-of-way for streets, alleys, easements, drainageways and land dedicated for public use, but does not include improvements such as utilities, street paving or the proposed subdividing of blocks into lots. Within 60 days prior to recording of a final plat, the developer shall submit a revised preliminary plat incorporating all conditions required by the city council.
(Code 1989, § 22-10; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-54. Contents of the preliminary plat.

(a) The preliminary plat is for the purpose of determination by the planning and zoning commission whether the proposed street and lot patterns and the proposed land use conform to the comprehensive plan and master street plan and other policies and standards of the city. The preliminary plat shall contain notation of the availability and capacity of required water and sewer facilities. Detailed engineering studies of

utilities are not required as part of the preliminary plat, but the design of the plat shall show that sanitary sewer, water lines, and surface water disposal and other utilities can be installed in an efficient and economical manner.

(b) The original drawing of the preliminary plat of the major subdivision shall be 18 inches by 24 inches, or in six-inch multiples thereof. If more than one sheet is used, they shall be numbered in sequence and the first sheet shall contain a key map. All plats shall be drawn to a scale of one inch equals 100 feet or larger (i.e., one inch equals 50 feet, not one inch equals 200 feet).

(c) The preliminary plat shall contain the following:

(1) The proposed name of the subdivision. (The name shall not duplicate or closely resemble the name of any existing subdivision.)

(2) The location of the boundary lines of the subdivision and references to the section or quarter section lines.

(3) Date of preparation and north arrow.

(4) Existing features.

a. Location, dimensions, and purpose or name of easements, improved streets, platted streets or other public ways, private streets, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within the proposed subdivision.

b. All existing sewers, water mains, gas mains, culverts or other underground installations, within or adjacent to the proposed subdivision, with pipe size and elevation, manholes, and location.

c. Zoning classification of the unsubdivided land.

d. Topography (unless specifically waived by the plat officer) with contour intervals of not more than two feet, referred to USGS datum, where the ground is too flat for contours, spot elevations shall be provided.

e. Locations of watercourses, bridges, lakes, ravines and such other features as may be pertinent to the subdivision.

f. Planned public improvements such as highways, schools, or other improvements planned by public authorities on or adjacent to the proposed plat.

(5) Proposed zoning classification and type of land uses to be developed in the proposed plat shall be noted.

(6) The consecutive numbering and arrangements of lots and blocks including their approximate size, setback lines as determined by chapter 44, and address numbers of all lots which shall be approved by the city manager's designee.

(7) Location, dimensions, and area of required park land dedication including the completed park land dedication formula, which can be found in article IV of this chapter, shall be printed within its bounds on the preliminary plat.

(8) Proposed location, dimensions, and purpose or name, as applicable, of private streets, railroad and utility rights-of-way, easements and land reserved for public uses, including, but not limited to, parks, schools, churches, etc., and permanent buildings within and surrounding 100 feet of the proposed subdivision.

(9) Accurate dimension, bearings or deflection angles, and radii, arcs and central angles of all curves for tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines.

(10) The location, type, size, width, etc., as applicable, of all proposed improvements, including, but not limited to, reference markers, sanitary sewers, water

lines, hydrants, streets, alleys, trails, sidewalks, street signs, street lights, street trees and storm sewer drains.

(11) The grades and profiles of existing streets and plans or written and signed statements regarding the grades of proposed streets, the width and type of pavement and the location and specifications for street under-drains.

(12) The names of proposed streets.

(13) Subdivision signs.

(14) Proposed grading and storm drainage plan, including location and size of all storm sewers, proposed land contours, necessary widths of all open drainageways and the 100-year high level water line.

(d) Surrounding area to be shown. The preliminary plat shall also show all existing development and improvements within 100 feet of the proposed plat which shall include:

(1) Streets, improved or platted.

(2) Buildings.

(3) Utilities, including, but not limited to, sanitary sewers, water, electricity, etc.

(4) Land use, including parking lots.

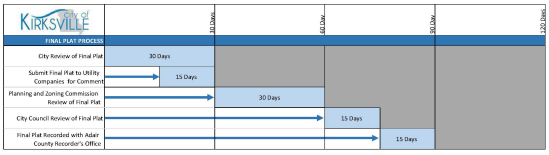
(5) Sidewalks.

(6) Property owner names of unplatted tracts or subdivision names, blocks and lots of platted lands referenced by book and page of the county records.

(Code 1989, § 22-11; Ord. No. 11367, 2-1-1999; Ord. No. 12156, § 1, 4-20-2015)

Sec. 34-55. Approval of final plat.

(a) Final plat approval timeline is as follows:



(b) After approval of the preliminary plat, the subdivider may submit final plats of the major subdivision in phases or in one comprehensive plat.

(c) The final plat shall conform to the preliminary plat as approved.

(d) At least 30 days prior to consideration by the planning and zoning commission, the developer shall produce copies of the final plat to be submitted to each public utility, including gas, electric, cable and telephone. Proof of such delivery shall be submitted to the city. Each public utility shall have 15 days from the date of delivery in which to provide written comment to the city on the final plat.

(e) Prior to the planning and zoning commission's approval of a final plat, it shall be certified by the plat officer that it conforms with the preliminary plat as approved, and that all engineering plans for required improvements outlined in this chapter have been illustrated in a satisfactory manner.

(f) The commission shall consider the final subdivision plat or proposed development within 30 days after the filing of the final plat with the city and arrive at a decision within 30 days of the first meeting. If disapproved, the commission shall state in writing the reasons for its disapproval. After its decision, the commission shall forward the matter in writing to the city council for final consideration. If disapproved by the commission, a final plat may still be approved by city council upon approval by four-fifths of its members.

(g) Prior to approval of the final plat by the city council, the developer shall agree in writing, in a form provided by the city, that they will:

(1) Install the required improvements in accordance with city standards prior to being issued a building permit. The construction and installation of required improvements may be to each lot for which a building permit is requested; however, no building permit shall be issued for construction on any lot within any subdivision until construction and installation of required improvements

have been completed within the subdivision for and to the lot for which the building permit is to be issued; or

(2) Provide a performance bond or escrow account, set up according to terms of the city, in an amount sufficient to ensure satisfactory construction, installation and dedication of the required improvements. If an escrow account is chosen by the developer, estimates of completed improvements may be presented to the city council together with a request for release of funds in the amount of completed improvements. Upon certification by the city that such improvements have been completed to city standards and specifications, the city council may release that portion of funds in the escrow account. Before final withdrawal of funds from the escrow account, the developer shall certify to the city that all bills have been paid for materials and work on the required improvements.

Building permits will be issued to any lot or area for which improvements have been completed to the city's standards and once a performance bond or escrow account has been established in accordance with subsection (g)(2) of this section. In those cases where a performance bond or escrow account has been posted and the required improvements have not been installed within one year, the city may thereupon declare the developer to be in default and require that all improvements be installed regardless of the extent of the building development at the time of default.

(h) The city council shall review the plat or subdivision and report of the commission and may give its final approval of the subdivision and acceptance of dedicated rights-of-way, easements, etc.

(i) Within 15 days after the approval of the final plat by the city council, the plat officer shall file the plat with the county recorder.

(j) The subdivider shall pay the cost of recording all final plats and accompanying documents.

(k) When subdivisions are platted that disturb an area of one acre or more, the developer shall apply to the department of natural resources (DNR) for a state operating permit for stormwater discharge. The city shall be in receipt of a copy of the DNR's approved permit. The city engineer may require the submission of a soil erosion control management plan for subdivisions containing less than one acre or subdivisions containing areas with erosion potential. See the codes department to determine if a land disturbance permit is required.
(Code 1989, § 22-12; Ord. No. 11367, 2-1-1999)

Sec. 34-56. Final plat contents.

(a) The final plat shall conform to the approved preliminary plat.

(b) The final plat shall meet the following specifications. The original drawing of the final plat of the major subdivision shall be 18 inches by 24 inches, or in six-inch multiples thereof. If more than one sheet is used, they shall be numbered in sequence and the first sheet shall contain a key map. All plats shall be drawn to a scale of one inch equals 100 feet or larger (i.e., one inch equals 50 feet, not one inch equals 200 feet). Four black line or blue line prints shall be submitted with the original final plat.

(c) The final plat shall include primary control points, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the final plat shall be referred. Benchmark ties to N.A.V.D. 1988, for vertical control.

(d) The final plat shall contain the following:

(1) The proposed name of the subdivision.

(2) Date of preparation and north arrow.

(3) The location of boundary lines of the subdivision and references to the section or quarter section lines.

(4) Private restrictions and covenants and their periods of existence, if any. Should these restrictions or covenants be of such length as to make their lettering on the plat impracticable, and thus necessitate

the preparation of a separate instrument, reference to such instrument shall be made on the plat.

(5) Location, dimensions, and area of required park land dedication.

(6) Location, dimensions, and purpose or name, as applicable, of improved streets, platted streets or other public ways, private streets, railroad and utility rights-of-way, easements, land planned for public use by the city, and land reserved for public uses, including, but not limited to, parks, schools, churches, etc., and permanent buildings within and surrounding 100 feet of the proposed subdivision.

(7) The location, type, size, width, etc., as applicable, of all proposed improvements, including, but not limited to, reference markers, sanitary sewers, water lines, hydrants, streets, alleys, trails, sidewalks, street signs, street lights, street trees and storm sewer drains.

(8) Accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves for tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines.

(9) The consecutive numbering and arrangements of lots and blocks including their approximate size, setback lines as determined by chapter 44, and address numbers of all lots which shall be approved by the city manager's designee.

(10) Property owner names of unplatted tracts or subdivision names, blocks and lots of platted lands referenced by book and page of the county records.

(11) Certificate of the surveyor attesting to the accuracy of the survey and the correct locations of all monuments shown.

(12) Statement of owner certifying procession of the title to the land being subdivided.

(13) Statement by owner dedicating streets, applicable public utilities, rights-of-way, easements and any sites for public uses.

(14) A statement of the cost of all water and sewer lines, and the appurtenances thereto, which are dedicated therein, such statement of cost to be used by the city for the sole purpose of developing its fixed asset inventory.

(15) Signature block for the planning and zoning commission, mayor, and city clerk.

(16) An area must be left blank at the upper right-hand corner of the final plat or survey for the county recorder's seal and signature.

(Code 1989, § 22-13; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007; Ord. No. 12244, 5-15-2017)

Secs. 34-57—34-85. Reserved.

DIVISION 3. MINOR SUBDIVISIONS

Sec. 34-86. When applicable.

The procedures contained herein are applicable to any division of land which falls within the definition of the term "minor subdivision" contained in section 34-2.

(Code 1989, § 22-15; Ord. No. 11367, 2-1-1999)

Sec. 34-87. General requirements.

(a) No land shall be subdivided as a minor subdivision and filed for record until the plat of the minor subdivision shall have been certified to and approved by action as specified in this division.

(b) The layout of the proposed minor subdivision shall be in conformity with the comprehensive plan and master street plan.

(c) No land shall be subdivided as a minor subdivision for any use unless each subdivided lot is completely fronted along a platted or improved public street, except when a subdivided portions will be legally combined with an adjacent lot that has street frontage, or is approved by city council and direct access to public utilities easement exists.

(d) In order to conserve time, effort and expense, the owner or subdivider shall consult with the plat officer and city engineer prior to the preparation of the plat of the minor subdivision.

(e) The preliminary plat shall be prepared by a professional engineer or landscape architect, a professional land planner or a land surveyor. (Code 1989, § 22-16; Ord. No. 11367, 2-1-1999)

Sec. 34-88. Contents of the plat.

(a) The final plat shall meet the following specifications. The original drawing of the final plat of the minor subdivision shall be 18 inches by 24 inches, or in six-inch multiples thereof. If more than one sheet is used, they shall be numbered in sequence and the first sheet shall contain a key map. All plats shall be drawn to a scale of one inch equals 100 feet or larger (i.e., one inch equals 50 feet, not one inch equals 200 feet). Four black line or blue line prints shall be submitted with the original final plat.

(b) The plat of a minor subdivision shall contain the following:

(1) Date of preparation and north arrow.

(2) The location of the boundary lines of the subdivision and references to the section or quarter section lines.

(3) Existing features.

a. Location, dimensions, and purpose or name of easements, improved streets, platted streets or other public ways, private streets, railroad and utility rights-of-way, parks and other public open spaces and permanent buildings within the proposed subdivision.

b. All existing sewers, water lines, gas lines, culverts or other underground installations, within or adjacent to the proposed subdivision, with pipe size and elevations, manholes and location.

c. Zoning classification of the unsubdivided land.

d. Topography (unless specifically waived by the plat officer) with contour intervals of not more than two feet, referred to USGS datum, where the ground is too flat for contours, spot elevations shall be provided.

e. Locations of watercourses, bridges, wooded areas, lakes, ravines and such other features as may be pertinent to the subdivision.

f. Planned public improvements such as highways, schools, or other improvements planned by public authorities on or adjacent to the proposed plat.

(4) Proposed zoning classification and type of land uses to be developed in the proposed plat shall be noted.

(5) The consecutive numbering and arrangements of lots and blocks including their approximate size, setback lines as determined by chapter 44, and address numbers of all lots which shall be approved by the city manager's designee.

(6) Proposed location, dimensions, and purpose or name of private streets, railroad and utility rights-of-way, easements and land reserved for public uses, including, but not limited to, parks, schools, churches, etc., and permanent buildings within and surrounding 300 feet of the proposed subdivision.

(7) Property owner names of surrounding unplatted tracts or subdivision names, blocks and lots of platted lands referenced by book and page of the county records.

(8) Certificate of the surveyor attesting to the accuracy of the survey and the correct locations of all monuments shown.

(9) Statement of owner certifying procession of the title to the land being subdivided.

(10) Signature block for the plat officer, mayor, and city clerk.

(11) The plat shall be formatted to meet the requirements of the county recorder's office.

(Code 1989, § 22-17; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-89. Approval of minor subdivision.

(a) The subdivider shall submit the plat of the minor subdivisions to the plat officer.

(b) Following due consideration of the plat, the plat officer shall approve or disapprove the plat. In case of disapproval, the reasons for such action shall be delivered to the subdivider.

(c) Following approval of the plat by the plat officer, it shall be forwarded to the city council for approval.

(d) Within 15 days after the approval of the plat by the city council, the plat officer shall file the plat with the county recorder.

(e) The subdivider shall pay the cost of recording the plat and accompanying documents.

(Code 1989, § 22-18; Ord. No. 11367, 2-1-1999; Ord. No. 12244, 5-15-2017)

Secs. 34-90—34-106. Reserved.

DIVISION 4. LOT SPLITS

Sec. 34-107. When applicable.

The procedures contained in this division are applicable to any division of land which falls within the definition of the term "subdivision lot split" contained in section 34-2.

(Code 1989, § 22-19; Ord. No. 11367, 2-1-1999)

Sec. 34-108. Field survey required.

(a) No land shall be divided as a subdivision lot split until an accurate survey by a state registered land surveyor shall have been prepared and filed with the plat officer.

(b) The survey shall be submitted on 18½-inch by 14-inch size paper, in original form, or other size as approved by the plat officer. The survey shall be drawn to a scale not smaller than 50 feet to the inch.

(c) An area at least five inches wide by three inches in height must be left blank at the upper right-hand corner of the final plat or survey for the county recorder's seal and signature.

(Code 1989, § 22-20; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-109. Approval of lot split.

(a) The subdivider shall submit the field survey to the plat officer.

(1) Any property that has been split after May 20, 1985, will not be able to be split again except by using the minor subdivision process. See division 3 of this article.

(2) Water and sewer mains must run adjacent to some part of the parent lot and the newly created lot to qualify for a lot split. The term "adjacent" is defined in this section as on the same side of the street, across the street, in the street of both the parent lot or the newly created lot, unless the newly created lot is to be included as a lot combination with a lot that currently has these services.

(3) Any new lot created and zoned as commercial or industrial must be located no farther than 300 feet from an existing fire hydrant.

(4) Any new lot created and zoned as residential must be located no farther than 600 feet from an existing fire hydrant.

(5) Each subdivided lot must be completely fronted along a platted or improved public street, unless the split-off portion will be legally combined with an adjacent lot that has street frontage or is approved by city council.

(6) Any lot that has been combined pursuant to the procedure provided in division 5 of this article or by development, may not be split unless the remaining lots meet the requirements for new lot sizes per its zoning classification outlined in chapter 44.

(7) The lot split must conform to the comprehensive plan and master street plan.

(b) Following due consideration of the field survey, the plat officer shall approve or disapprove the field survey. In case of disapproval, the reasons for such action shall be delivered to the subdivider.

(c) Following approval of the field survey by the plat officer, it shall be forwarded to the city council or to the city manager for approval. Lot splits that meet all city requirements for the lot split process, after determination by the plat officer, may be approved by the city manager for recording, without an enacting ordinance and without city council approval. Lot splits that do not meet city requirements will not be approved by the city manager. Persons having a request for a lot split that does not meet all requirements for the process or that have special concerns or issues have the option to take their request to city council for approval with an enacting ordinance.

(d) Within 15 days after the approval of the field survey by the city manager or city council, the plat officer shall file the field survey with the county recorder.

(e) The subdivider shall pay the cost of recording the field survey and accompanying documents, if any.
(Code 1989, § 22-21; Ord. No. 11367, 2-1-1999; Ord. No. 12156, § 2, 4-20-2015; Ord. No. 12244, 5-15-2017)

Secs. 34-110—34-131. Reserved.

DIVISION 5. LOT COMBINATIONS

Sec. 34-132. When applicable.

The procedures contained in the division are applicable to any combination of land which fall within the definition of the term "subdivision lot combination" contained in section 34-2.

Sec. 34-133. Field survey required.

(a) No land shall be combined as a lot combination until an accurate survey by a state registered land surveyor shall have been prepared and filed with the plat officer.

(b) The survey shall be submitted on 18½-inch by 14-inch size paper, in original form, or other size as approved by the plat officer. The survey shall be drawn to scale not smaller than 50 feet to the inch.

(c) An area of at least five inches wide by three inches in height must be left blank at the upper right-hand corner of the final plat or survey for the county recorder's seal and signature.

Sec. 34-134. Approval of survey.

(a) The owner of the platted lots shall submit the field survey to the plat officer.

(b) The survey will include an application to combine the platted lots.

(c) Following due consideration of the field survey, the plat officer shall approve or disapprove the field survey. In case of disapproval, the reasons for such action shall be delivered to the owner.

(d) Following approval of the field survey by the plat officer, it shall be forwarded to the city council or to the city manager for approval. Lot combinations that meet all city requirements for the lot combination process, after determination by the plat officer, may be approved by the city manager for recording, without an enacting ordinance and without city council approval. Lot combinations that do not meet city requirements will not be approved by the city manager. Persons having a request for a lot combination that does not meet all requirements for the process or that have special concerns or issues have the option to take their request to city council for approval with an enacting ordinance.

(e) Within 15 days after the approval of the field survey by the city manager or city council, the plat officer shall file the field survey with the county recorder for replatting.

(f) The owner of the properties to be combined shall pay the cost of recording the replat and accompanying documents, if any.

(g) The lot combination must conform to the comprehensive plan and master street plan.

Secs. 34-135—34-151. Reserved.

ARTICLE III. DESIGN STANDARDS

Sec. 34-152. Streets.

The course, width, grade and location of all streets shall conform to the comprehensive plan and master street plan and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such street and shall conform to the following design standards:

(1) *Major streets.* Arterial and collector streets through plats shall conform to the city's comprehensive plan and master street plan. Wherever a plat abuts or is divided by a major street, designated by the city plan whether any part thereof has or has not been dedicated or used by the public, the developer shall dedicate any lands within such plat which are necessary to provide conformity with the master street plan. Such dedication shall be shown on the plat, and the developer shall receive no compensation for such dedication.

(2) *Local streets.* Local streets through plats shall conform to the city's comprehensive plan and master street plan. Local streets shall be so designated to provide access to each lot or parcel of land and in a manner that will encourage automobile, bike, and pedestrian connectivity.

(3) *Cul-de-sacs.* Cul-de-sacs in R-1, Single-Family Residential Districts shall be no longer than 750 feet nor provide access to more than 20 lots or dwellings. Cul-de-sacs in all other districts shall be no longer than 500 feet. All cul-de-sacs shall terminate in circular paved space having a minimum radius of 51 feet from the center to the back of the curb, not including additional required right-of-way space. Landscaping, trees, utilities, or other similar features shall not be located in the center of the cul-de-sac. The entire diameter of the cul-de-sac shall be paved.

(4) *Right angle intersections.* Under normal conditions, streets shall be laid out to intersect, as nearly as possible, at right angles. Where topography or other conditions justify a variation from the right angle intersection, the minimum angle shall be 75 degrees.

(5) *Frontage roads.* Whenever a plat abuts or contains an existing or proposed major street, nonresidential land use, the planning and zoning commission may require frontage roads, screen plantings, deep lots or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(6) *Half-streets.* Dedication of half-streets will not be approved, except where it is in conformity with the approved master street plan and is essential to the reasonable development of the plat.

(7) *Minimum dimensions.* Right-of-way widths for streets include additional space for infrastructure and amenities necessary to serve the subdivision. All rights-of-way for streets included in any plat, hereafter dedicated and accepted, shall conform to the comprehensive plan or master street plan and shall not be less than the minimum dimensions for each classification as follows:

BB: back of curb to back of curb. Indicates distance from back of curb to back of curb. Each curb is two feet in width.

2S: two sides. Indicates widths are required on both sides of the street to accommodate the features.

1S: one side. Indicates that the width is required on either side of the street to accommodate the features.

a. *Arterial.*
   1. *Required minimum ROW width (100 feet total).*
      (i) Pavement width (BB): 28 feet.
      (ii) Lane expansion buffer (2S): 18 feet.
      (iii) Utility buffer (2S): Seven feet.
      (iv) Tree buffer (2S): Six feet.
      (v) Sidewalk width (2S): Five feet.
   2. *Optional minimum ROW widths.*
      (i) Traffic lane (2S): Six feet.
      (ii) Center median (BB): 12 feet.
      (iii) Bike lanes (2S/on-street or off-street): Five feet.
   3. *Additional information.*
      (i) Curb type: Vertical face.
      (ii) Parking allowed: No.

b. *Collector.*
   1. *Required minimum ROW widths (60 feet total).*
      (i) Pavement width (BB): 26 feet.
      (ii) Utility buffer (2S): Six feet.
      (iii) Tree buffer (2S): Six feet.
      (iv) Sidewalk width (2S): Five feet.
   2. *Optional minimum ROW widths.*
      (i) Traffic lane (25): Six feet.
      (ii) Center median (BB): Eight feet.
      (iii) On-street parallel parking lane (1S or 2S): Eight feet.
      (iv) Bike lanes (2S/on-street or off-street): Five feet.
   3. *Additional information.*
      (i) Curb type: Vertical face.
      (ii) Parking allowed: Yes.

c. *Local; commercial and industrial.*
   1. *Required minimum ROW widths (60 feet total).*
      (i) Pavement width (BB): 28 feet.
      (ii) Utility buffer (2S): Six feet.
      (iii) Tree buffer (2S): Five feet.
      (iv) Sidewalk width (2S): Five feet.
   2. *Optional minimum ROW widths.*
      (i) Bike lanes (2S/on-street or off-street): Five feet.
   3. *Additional information.*
      (i) Curb type: Vertical face.
      (ii) Parking allowed: No.

d. *Local, residential.*
   1. *Required minimum ROW widths (60 feet total).*
      (i) Pavement width (BB): 28 feet.
      (ii) Utility buffer (2S): Six feet.
      (iii) Tree buffer (2S): Five feet.
      (iv) Sidewalk width (2S): Five feet.
   2. *Optional minimum ROW widths.*
      (i) On-street parallel parking lane (1S or 2S): Seven feet.
      (ii) Bike lanes (2S/on-street or off-street): Five feet.
   3. *Additional information.*
      (i) Curb type: Drive over.
      (ii) Parking allowed: Yes.

e. *Cul-de-sac turnaround radius.*
   1. *Required minimum ROW radius widths (68 feet total).*
      (i) Pavement width (BB): 51 feet.
      (ii) Utility buffer (1S): Six feet.
      (iii) Tree buffer (1S): Six feet.

(iv) Sidewalk width (1S): Five feet.

2. *Additional information.*

(i) Curb type: Drive over.

(ii) Parking allowed: Yes.

f. *Alley.*

1. *Required minimum ROW widths (20 feet total).*

(i) Pavement width (BB): 12 feet.

(ii) Utility buffer (1S): Eight feet.

2. *Additional information.*

(i) Curb type: None.

(ii) Parking allowed: No.

(8) *Street grades.* The grades of streets included in any plat shall be no less than two percent and no greater than eight percent.

(9) *Street alignment.* Minimum horizontal and vertical alignment on all streets, except in unusual cases, shall be as follows:

a. Horizontal alignment; radii at the centerline.

1. Arterial and collector streets: 300 feet.

2. Local streets: 300 feet.

b. Vertical alignment. All changes in street grade shall be connected by vertical curves of such length as to provide for desirable sight distance.

(10) *Street jogs.* Streets with centerline offsets of less than 150 feet shall be avoided.

(11) *Street names.* Street names shall not duplicate or be similar so as to be confused for the names of existing streets. Streets that are obviously in alignment with existing streets shall bear the same names.

(Code 1989, § 22-22; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007; Ord. No. 12156, § 3, 4-20-2015)

Sec. 34-153. Street connectivity.

(a) *Purpose and intent.* The street connectivity standards of this section are established to ensure that the following are met:

(1) Streets are designed to efficiently and safely accommodate emergency fire and medical service vehicles.

(2) The layout of a street system does not create excessive travel lengths.

(3) The function of a local street is readily apparent to the user through its appearance and design in order to reduce non-local traffic on local residential streets.

(4) Streets are interconnected to reduce travel distance, promote the use of alternative modes, provide for efficient provision of utility and emergency services, and provide for more even dispersal of traffic.

(5) New streets are designed to meet the needs of pedestrians and cyclists and encourage walking and bicycling as transportation modes.

(6) The street circulation pattern provides connections to and from activity centers such as schools, commercial areas, parks, employment centers, and other major attractors.

(7) Street design is responsive to topography and other natural features and avoids or minimizes impacts to water-related resources and wildlife corridors.

(8) Local circulation systems and land development patterns do not detract from the efficiency of adjacent collector streets or arterial streets which are designed to accommodate heavy traffic.

(9) Streets identified as future transit routes should be designed to safely and efficiently accommodate transit vehicles, thus encouraging the use of public transit as a transportation mode.

(10) Where appropriate, the street system and its infrastructure should be utilized as an opportunity to convey and treat stormwater runoff.

(b) *Street connectivity standards.*

(1) All streets and alleys shall be public unless the subdivider demonstrates or the city identifies that a public street or alley is not necessary for compliance with the standards outlined in this Code.

(2) The proposed subdivision shall include street connections in the direction of the nearest existing or planned streets within one-half mile of the plat. The proposed subdivision shall also include street connections to any streets that abut, are adjacent to, or terminate at the plat.

(3) The proposed subdivision shall include streets that extend to undeveloped or partially developed land that is adjacent to the plat or that is separated from the plat by a drainage channel, transmission easement, survey gap, or similar property condition. The streets shall be in locations that will enable adjoining properties to connect to the proposed subdivision's street system.

(4) If where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for unplatted portion shall be prepared and submitted by the developer. Where it is obvious a street from another development should continue across the planned development the plan shall provide for continuation of this street through the development.

(5) In cases where a required street connection would result in the extension of an existing street that is not improved to city standards and the street has an inadequate driving surface, the subdivider shall construct a temporary barrier at the entrance to the unimproved street section with provision for bicycle, pedestrian, and emergency vehicle access. The barrier shall be removed by the city at the time the existing street is improved to city standards or to an acceptable standard adopted by the public works director.

(6) The city shall grant an exception to the standards in subsection (b)(2), (3) or (4) of this section if the subdivider demonstrates that any proposed exceptions are consistent with either subsection (b)(6)a or b of this section.

a. The subdivider has provided to the city, a local street connection study that demonstrates:

1. That the proposed street system meets the intent of street connectivity provisions of this chapter as expressed in subsection (a) of this section; and

2. How undeveloped or partially developed properties within a one-half mile can be adequately served by alternative street layouts.

b. The subdivider demonstrates that a connection cannot be made because of the existence of one or more of the following conditions:

1. Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.

2. Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.

Sec. 34-154. Temporary dead-end streets.

When the subdivision is being constructed in phases, certain streets may dead-end until a

subsequent phase carries the street on to complete a block or to complete the subdivision. Such temporary dead-end streets which have not more than four lots facing thereof need not provide a turnaround. On temporary dead-end streets containing more than four lots facing thereon, a temporary turnaround shall be provided; such turnaround to be in the form of a "T" or other pattern approved by the city engineer. Such turnaround shall be removed by the subdivider at such time as the street is extended. The turnaround may be contained entirely on the street right-of-way, or may temporarily occupy a portion of a lot adjacent to the dead-end, or may be on unplatted land adjacent, if this land is owned or controlled by the subdivider.
(Code 1989, § 22-23; Ord. No. 11367, 2-1-1999)

Sec. 34-155. Blocks.

(a) *Block geometry.* Blocks shall be laid out in a rectangular nature and shall have four sides with four interior block corners or shall conform to the master street plan. Intersecting streets, which form interior block corners, shall meet at no less than 75 degrees and no greater than 115 degrees. Blocks may conform to topographical conditions of the subdivision.

(b) *Length.* Intersecting streets, which determine block lengths, shall be provided at such intervals as to provide adequate access and to meet existing streets in the neighborhood. In plats intended to serve any residential use, the blocks shall not exceed 750 feet in length except where topography or other conditions justify a departure from this maximum. In blocks longer than 500 feet, sidewalks through the block shall be required near the center of the block. Such easement for the sidewalk shall have minimum width of ten feet. Blocks for commercial or industrial uses should not exceed 1,000 feet in length.

(c) *Widths.* In plats intended to serve any residential use, interior blocks shall have sufficient width to provide for two tiers of lots of appropriate depths, but shall not exceed 500 feet. Exceptions to this prescribed block width shall be permitted for exterior blocks which border the plat boundary or blocks adjacent to major streets, railroads or waterways. Blocks intended for commercial or industrial use shall be of such width and depth as may be considered most suitable for the prospective business.

(d) *Completing blocks.* In plats intended to serve any residential use, the creation of a block exceeding the allowed maximum perimeter of 2,500 feet is acceptable in a situation where a planned street in a proposed subdivision cannot connect to an improved or platted public street in an adjacent development or subdivision due to existing development or natural features.

(e) *Topographical limitations.* Where topographical conditions prevent the items in this section from being completed, blocks may conform to the topography and natural features of the land.
(Code 1989, § 22-24; Ord. No. 11367, 2-1-1999)

Sec. 34-156. Lots.

(a) Every lot shall be designed to provide a satisfactory and desirable building site and shall abut on a street and a utility easement. In a planned unit development, each lot shall be granted access to a public street through the common property. Utility easements shall be provided as necessary for each lot in the development.

(b) The minimum lot width shall be 50 feet; except where additional width is required either by the zoning regulations, or the lack of public utilities (water or sewer), or a corner lot where a front yard is required on both streets.

(c) The minimum lot depth shall be 100 feet, except where additional depth is required either by the zoning regulations or the lack of public utilities, water or sewer.

(d) All side lot lines shall bear 60 to 90 degrees from the street right-of-way line on a straight street or from a perpendicular of the tangent of a curved street.

(e) Corner lots, in residential subdivisions, shall have additional width or depth in order that the same setback on both streets may be observed.

(f) Double frontage lots shall be avoided unless, in the opinion of the planning and zoning commission, a variation to this rule will give better street alignment and lot arrangement.

(g) All lots shall completely front upon an existing public street or platted public street. Newly platted residential lots fronting upon arterials shall provide a minimum front yard setback of at least 50 feet.

(h) Building or setback lines shall be shown on the preliminary and final plats for all lots in the subdivision and shall not be less than the setback required by chapter 44.

(i) The subdivision or resubdivision of a tract, block or lot shall not be permitted where it would create a lot or parcel, or place an existing structure in violation of the requirements of chapter 44.
(Code 1989, § 22-25; Ord. No. 11367, 2-1-1999)

Sec. 34-157. Easements.

(a) Easements shall be provided for any existing public facility or planned improvement project. Easements for installation and maintenance of utilities shall be provided where necessary to serve the subdivision. Utility easements shall be not less than 20 feet wide and, when practical, centered on rear lot lines. Drainage easements shall be provided where underground storm sewers or surface watercourses are located on private property. The size and location of such drainage easements shall be approved by the city engineer and capacities shall be calculated based upon a 100-year-design rainfall. Preplanning of easements shall be coordinated between the developer and utility companies involved in servicing the subdivision. Written approval shall be received from the utility company by the city as to utility location prior to final plat approval.

(b) Easements must be provide for any planned public improvement project, whether it be a school, street, bike trail, or other project meant to serve the greater public good.
(Code 1989, § 22-26; Ord. No. 11367, 2-1-1999)

Sec. 34-158. Sidewalks.

(a) Subdivisions developed within the city limits or large projects covering a block or more are required to have sidewalks based on the classification of street. Sidewalks are required on both sides of collector and arterial streets. Sidewalks are required on one continuous side of local residential streets, local commercial streets, and cul-de-sacs.

(b) Sidewalks shall be accepted by the city upon completion of the sections of sidewalk and after inspection by the city engineer. The sole costs for sidewalk construction shall be borne by the owner/developer of the subdivided tract. In determining where new subdivision sidewalks should be located, the planning and zoning commission shall consider where they will connect to planned or existing hiking and biking trails and other sidewalks.

(c) Where projects involve a large amount of land (one block or more of street frontage) the city shall require that sidewalks be constructed.

(d) If sidewalks are required, they shall be located on the side of the street fronting the development unless otherwise determined by the city.

(e) If the city determines that sidewalks are necessary for a large project, the requirements and standards for construction shall be the same as aforementioned for subdivisions. However, the developer need not meet with the planning and zoning commission; locations of large project sidewalks shall be determined by the city planner or city engineer.
(Code 1989, § 22-27; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007; Ord. No. 12156, § 4, 4-20-2015)

Sec. 34-159. Subdivision monuments and signs.

A subdivision's homeowners' association shall be permitted to be identified by means of subdivision monuments, signs, statues, etc., and shall adhere to the following:

(1) *Contents and features.* Subdivision monuments or signs shall show only the name of the subdivision or area and cannot

show information for advertising. All wording for the monuments or signs must be approved by the plat officer.

(2) *Locations.* Monuments or subdivision signs shall be located on private land or can be on public land if approved by city council during consideration of the final plat.

(3) *Fees.* The one-time fee for a monument sign located within the right-of-way per monument or sign shall be as provided in the city's fee schedule. The one-time fee for a subdivision monument or sign located on private land per monument or sign shall be as provided in the city's fee schedule.

(4) *Erection, maintenance and insurance.* All costs of erection and maintenance of the subdivision monuments or signs shall be borne by the subdivider. The subdivider shall also provide insurance for subdivision monuments or signs.

(5) *Removal.* The city shall have the right to remove said subdivision monuments or signs in the case of disrepair, need for public improvements, etc. Any costs incurred by the city for said removal shall be at the cost of the subdivider if they are living and can be located.

Secs. 34-160—34-186. Reserved.

ARTICLE IV. REQUIRED IMPROVEMENTS

Sec. 34-187. Survey markers; block, lot, tangents.

Steel pins shall be placed by a state registered land surveyor at all block corners, lot corners, points of tangency of curves in streets, and at such intermediate points as shall be required by the plat officer. The pins shall be iron bars one-half inch in diameter and 18 inches long, or of such equivalent material, size and length as may be approved by the plat officer. Permanent markers shall be placed at each corner of major subdivisions. Such markers shall be concrete columns, six inches in diameter and extend three feet below finish grade with a centered steel bar. (Code 1989, § 22-28; Ord. No. 11367, 2-1-1999)

Sec. 34-188. Streets.

(a) All streets shown on the approved subdivision plat shall be appropriately graded to the minimum pavement widths and cross sections approved by the city engineer and the design standards of this chapter and chapter 32. Construction of streets shall be in accordance with city specifications and the latest edition of the American Public Works Association (APWA) standards.

(b) All streets shall be provided with curb and gutter which shall be one of the types listed in article III of this chapter.

(c) Prior to placing the street surface, required subsurface drainage for the streets and all utilities under the streets shall be installed by the subdivider.

(d) The subdivider shall reimburse the city for providing and installing street signs, as approved by the public works director.
(Code 1989, § 22-29; Ord. No. 11367, 2-1-1999; Ord. No. 12170, § 2, 9-21-2015)

Sec. 34-189. Street lighting.

It shall be a requirement for subdivision streets to be lighted in accordance with the city's street lighting policy. A street light is required at each street or sidewalk intersection within a subdivision. Street lights shall be spaced out at no more than 250 feet from each other. The location of street lights shall be shown and determined on the preliminary and final plats and street lighting installation shall be shared by the city and developer according to the following: The developer shall pay for any and all conduit, trenching, backfilling, etc. The city shall pay only for the standard pole and fixtures that are normally provided by the utility company at that time. Any additional light poles, fixtures, etc., shall be paid by the subdivider. The subdivider may install higher quality light poles and fixtures, given the additional expense is borne on the subdivider at the time of develop-

ment. The higher quality light poles and fixtures shall be in compliance with the city's street lighting policy. Underground power lines necessary to serve street lights shall be installed at the same time that power is installed to lots in the subdivision at the developer's cost. Street lighting shall be in place at the time of street construction.
(Code 1989, § 22-30; Ord. No. 11367, 2-1-1999)

Sec. 34-190. Sidewalks.

(a) Any required public sidewalk fronting a lot in a new subdivision can be delayed for construction up to three months after a temporary occupancy permit is issued for a completed structure. This sidewalk must be installed before a final occupancy permit is issued for the completed structure. Sidewalks shall be accepted by the city upon completion of the section of sidewalk and after inspection by the city engineer.

(b) The sole costs for sidewalk construction shall be borne by the owner/developer of the subdivided tract. In determining where new subdivision sidewalks should be located during approval of the preliminary and final plats, the planning and zoning commission shall consider where they will connect to planned or existing hiking and biking trails and other arterial sidewalks. Sidewalks shall meet the standards and specifications outlined in this chapter and this Code.

Sec. 34-191. Sanitary sewers.

(a) Sanitary sewer laterals passing under street surfaces shall be installed prior to placement of pavement.

(b) The plan and profiles for the sanitary sewer system shall be prepared for the entire subdivision, even though it may be constructed in stages. All sanitary sewer plans and profiles and specifications must be approved by the city, the state department of natural resources (DNR), and a construction permit obtained from DNR before construction is started. Elevation on sanitary sewer plans shall refer to N.A.V.D. 1988 datum.

(c) The sanitary sewer system shall be connected to the municipal sewer system.

(d) The minimum size pipe shall be eight inches in diameter, excluding service connections.

(e) Upon completion of the sanitary sewer system installation, a state registered professional engineer shall certify that the sanitary sewer system complies with all the standards required by the city, county, and department of natural resources.

(f) If the subdivision development causes the necessity of a lift station or pump, the cost of these improvements will be at the expense of the subdivider. These improvements shall be built to city specifications and approved by the city engineer.
(Code 1989, § 22-31; Ord. No. 11367, 2-1-1999)

Sec. 34-192. Storm sewers.

The subdivider shall develop a storm drainage plan, which shall be approved by the city engineer. All storm drainage calculations shall be made in accordance with the minimum design criteria approved by the city engineer. If new construction causes drainage issues downstream due to increase in stormwater flow, it will be the responsibility of the owner, developer, or contractor to repair the downstream drainage problems/issues (i.e., increase culvert/pipe sizes or additional ditching downstream).
(Code 1989, § 22-32; Ord. No. 11367, 2-1-1999)

Sec. 34-193. Water supply system.

(a) The subdivider shall provide a complete water main supply system which shall be connected to the municipal water supply.

(b) The water mains shall be sized to adequately service all proposed or planned development and fire hydrants for fire protection. Size of water mains, and number and locations of fire hydrants shall be approved by the city engineer and the insurance services office. Service lines and meters shall be located within the boundaries of the lot of the construction. Running service lines across adjacent, proposed, or possible future lots is not authorized.

(c) All plans and specifications for water mains must be approved by the city engineer, the state department of natural resources, and the insurance services office before start of construction. Water mains shall be at least six inches in diameter.
(Code 1989, § 22-33; Ord. No. 11367, 2-1-1999)

Sec. 34-194. Utility service companies.

The subdivider shall make the necessary arrangements with the gas, electric, cable television, and phone companies for service. All utilities shall be underground. The city shall be granted free access to these projects to inspect location, backfilling, surface restoration, depth of services, etc., as it pertains to and during construction within the public right-of-way or easements. Private utilities shall be located at a minimum of ten feet from city owned utilities (water/sewer).
(Code 1989, § 22-34; Ord. No. 11367, 2-1-1999)

Sec. 34-195. Trees in right-of-way.

The city, in keeping with its policy of increasing the number of public and private trees in the community, encourages tree planting in street rights-of-way. The type and species of trees that are planted shall be in accordance with chapter 32, article VIII and other tree policies. In new subdivisions, trees planted on public rights-of-way shall be permitted only in designated corridors reserved for trees. The planting of trees is not required of developers even though they shall be required to provide sufficient right-of-way for trees. In new subdivisions, the subdivider, homeowners' association, or property owner, as applicable, will be responsible for the maintenance of all trees, shrubs, etc., in the right-of-way. The city reserves the right to remove street trees within the right-of-way that cause a safety hazard, complete blockage of line of site, or interfere with utility or street maintenance.
(Code 1989, § 22-35; Ord. No. 11367, 2-1-1999)

Sec. 34-196. Inspections.

(a) Construction inspections shall be made by the city engineer, or a duly authorized representative. Inspections shall be required on street construction for:

(1) Compaction of subbase;

(2) Placement of surface course; and

(3) Completion of paving.

(b) See chapter 32 for more information.
(Code 1989, § 22-37; Ord. No. 11367, 2-1-1999)

Sec. 34-197. Maintenance bond.

A ten percent maintenance bond shall be provided by the subdivider on a contractor, guaranteeing the street improvements against defects or failure in workmanship and materials for a period of two years from the date of acceptance of such improvements; it shall be filed with the plat officer prior to the acceptance of the improvements by the city. Amount of the bond shall be ten percent of the mean average of developer's cost and the city's estimated cost of the street only.
(Code 1989, § 22-38; Ord. No. 11367, 2-1-1999; Ord. No. 11813, 11-6-2007)

Sec. 34-198. As-built drawings.

(a) Upon completion of construction of all streets, utilities, stormwater, or other improvements, two sets of complete as-built final plans, dated, signed and certified by the engineer in charge shall be filed with the city engineer showing all features as actually installed, including materials, size, location, depth or elevation, numbers, ends of lines, connections, wyes, valves, storm sewer drains, inlets, and all other pertinent information.

(b) A statement of the cost of all water and sewer lines, and the appurtenances thereto, which are dedicated therein, shall be used by the city for the sole purpose of developing its fixed asset inventory.

(c) One certified copy of the as-built plans for the sanitary sewer system shall be filed with the department of natural resources by the developer, or engineer of record.

(d) One certified copy of the as-built plans for the sanitary sewer system, water main, and stormwater construction/improvement shall be filed with the city engineer's office by the developer, or engineer of record.
(Code 1989, § 22-39; Ord. No. 11367, 2-1-1999)

Chapter 35

RESERVED

Chapter 36

TAXATION

Article I. In General

Secs. 36-1—36-18. Reserved.

Article II. Lodging Tax

ARTICLE I. IN GENERAL

Secs. 36-1—36-18. Reserved.

ARTICLE II. LODGING TAX

Sec. 36-19. 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:

Lodging establishment means any hotel, motel, bed and breakfast structure, or dwelling, which houses at least one lodging room for the accommodation of transient guests, for no more than 31 days, with or without meals being provided, and kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation.

Transient guests means any person who occupies a room in a hotel, motel, or bed and breakfast, for 31 days or less.
(Code 1989, § 23-91; Ord. No. 11804, § 1, 8-7-2007)

Sec. 36-20. Levy of tax.

There is hereby levied a tax of 3.6 percent of the gross daily rent due from and paid by transient guests of all lodging rooms occupied and rented by transient guests of lodging establishments located in the city. This charge is in addition to the charge for the lodging room and shall be in addition to any and all taxes imposed by law. Said proceeds shall be used for funding a convention and visitors bureau, which shall be a general not-for-profit organization with whom the city has contracted, and which is established for the purpose of promoting tourism.
(Code 1989, § 23-92; Ord. No. 11804, § 2, 8-7-2007)

Sec. 36-21. Payments of tax.

Each operator of a lodging establishment shall, on or before the last day of the calendar month, immediately following the end of a calendar quarter, complete the lodging tax return provided by the city of total rents charged and the amount of tax collected for transient occupancy. At the time the return is filed, the full amount of the tax shall be remitted. The city council hereby establishes a lodging tax line item in the general fund budget. All taxes collected under this section shall be deposited to the credit of this line item.
(Code 1989, § 23-93; Ord. No. 11804, § 3, 8-7-2007)

Sec. 36-22. Penalties for nonpayment.

Any operator who fails to remit any tax imposed by this article within the time required shall pay a penalty of one percent and interest of two percent for each month on the unpaid taxes. The taxes shall be deemed unpaid and delinquent on the first day of the second month immediately following the end of the calendar quarter. All penalties and interest imposed under the provisions of this article shall become a part of the tax herein required to be paid. In addition to the penalties and interest imposed in this section, it shall be unlawful for any person, owner, proprietor, managing agent, operator or any type of employee of a lodging establishment to fail or refuse to register a lodging establishment, to pay the lodging tax as required by this article, or to submit any tax return or other financial records, or to refuse to permit any necessary inspection of hotel records, or to willfully render a false or fraudulent tax return or claim as required by this article.
(Code 1989, § 23-94; Ord. No. 11804, § 4, 8-7-2007)

Sec. 36-23. Reports.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed under this article to keep and preserve for a period of three years all records which may be necessary to determine the amount of such taxes as may have accrued to the city and for the collection or payment of which such operator is responsible. The finance director, or the director's authorized agent or representative, shall have the right to inspect such records at all reason-

able times, but shall hold the same in confidence and utilize same only for the purposes of enforcement of this article.
(Code 1989, § 23-95; Ord. No. 11804, § 5, 8-7-2007)

Sec. 36-24. Convention and tourism advisory board.

(a) *Board established.* Expenditures from the convention and tourism fund shall be made at the discretion of the not-for-profit organization, subject to review of the city council. To assist in exercising this discretion, a convention and tourism advisory board is hereby established.

(b) *Membership.* The convention and tourism advisory board shall consist of nine members, with two members appointed by the city council; five members appointed by the chamber of commerce, with at least three of these members being from the hotel, motel or bed and breakfast industry within the city; one member appointed by the President of Truman State University; and one member appointed by the President of A. T. Still University. In the event no person from the city lodging establishment industry will accept a position on the board, then the requirement for three appointees to be from the lodging establishment industry shall be declared void for that given year. In addition, the executive director of the Kirksville Area Chamber of Commerce shall serve as a nonvoting ex officio member. The executive director may designate another staff person to serve in place as ex officio member.

(c) *Term of office.* The initial members of the board shall serve as follows: three of the initial members of the board shall serve for a three-year term, three of the initial board shall serve for a two-year term and three of the initial members of the board shall serve for a one-year term. Thereafter, the appointed members of the board shall serve for three-year terms. The initial term shall commence on June 1, 2007. Prior to the expiration of each member's term of office, the city council and chamber of commerce shall appoint, as applicable, their successor to a two-year term. Except in the case of resignation or removal, members shall hold office until their successors are appointed.

(d) *Dismissals.* The city council may remove any member of the convention and tourism advisory board for misconduct or neglect of duty.

(e) *Vacancies.* Any vacancy in membership shall be filled for the unexpired term by the city council for a city appointee and by the chamber of commerce for a chamber of commerce appointee.

(f) *Compensation.* No member of the board shall receive compensation for this service.

(g) *Officers and committees.* The original members of the convention and tourism advisory board shall meet within 30 days of their appointment and organize themselves by the election of one of their number as chairperson, another as vice-chairperson and another as secretary/treasurer, and by the election of such other officers as they may deem necessary. Thereafter, new elections among the members of the convention and tourism advisory board for all officer positions shall occur annually during the month of June. The chairperson, vice-chairperson and secretary/treasurer of the convention and tourism advisory board shall function as an executive committee and the members of the convention and tourism advisory board may create such other committees as they deem necessary.

(h) *Bylaws, rules and regulations.* The convention and tourism advisory board shall make and adopt such bylaws, rules and regulations for their own guidance and for the administration of the board as they may deem appropriate, but not inconsistent with the ordinances of the city or the statutes of the state. The board shall follow all meeting notice requirements, and the taking of minutes, according to the Missouri Sunshine Law.

(i) *Budget.* The not-for-profit organization shall submit a proposed line item budget for the convention and tourism fund to the city council no later than November 1 of each year. The not-for-profit organization may submit, along with the budget, written recommendations including methods of promoting tourism and conventions such as employment of personnel and procurement of services through contractual relations. The city manager shall forward these

recommendations along with comments and recommendations to the city council for review and approval.

(j) *Annual report.* The convention and tourism advisory board shall be required to submit an annual report of its activities to the city council in February of each year.
(Code 1989, § 23-96; Ord. No. 11804, § 6, 8-7-2007; Ord. No. 11886, 8-3-2009)

Chapter 37

RESERVED

Chapter 38

TRAFFIC AND MOTOR VEHICLES

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ARTICLE I. IN GENERAL

Sec. 38-1. Definitions.

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

Alley or *alleyway* means any street with a roadway of less than 20 feet in width.

Authorized emergency vehicle means a vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the state highway patrol, police or fire department, sheriff or constable or deputy sheriff, traffic officer or any privately owned vehicle operated as an ambulance when responding to emergency calls.

Business district means the territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, or office buildings, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Central business (or traffic) district means all streets and portions of streets within the area described by city ordinance as such.

Child booster seat means a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213, as amended, that is designed to elevate a child to properly sit in a federally-approved safety belt system.

Child passenger restraint system means a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.

Commercial vehicle means every vehicle designed, maintained, or used primarily for the transportation of property.

Controlled access highway means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

Crosswalk means:

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Driver means every person who drives or is in actual physical control of a vehicle.

Freight curb loading zone means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).

Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Intersection means:

(1) The area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways 30 feet or more apart, then every cross-

ing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Laned roadway means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Local commercial motor vehicle means a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than 50 miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease, provided that any such property transported to any such farm is for use in the operation of such farm.

Motor vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motorized bicycle means any two- or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than 50 cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowner's or renter's insurance policy.

Motorized play vehicle means mini-motorcycles, pocket bikes, and any other vehicle that is capable of transporting persons at a speed in excess of five miles per hour, excluding personal assistive mobility devices/motorized wheelchairs; that is self-propelled by a motor or engine; and that is not otherwise defined by state statutes, or this Code, as a motor vehicle, bicycle or motorized bicycle.

Official time standard. Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in the city.

Official traffic-control devices means all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Park or *parking* means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Passenger curb loading zone means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Pedestrian means any person afoot.

Police officer means every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or *driveway* means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Residence district means territory, not constituting a business district, that is contiguous to and includes a highway, when the property on such highway for a distance of 300 feet or more is for the most part improved with residences or residences and buildings used for business purposes.

Right-of-way means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direc-

tion, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Roadway means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway," as used herein, shall refer to any such roadway separately but not to all such roadways collectively.

Safety zone means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Stand or *standing* means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

State highway means a highway maintained by the state as a part of the state highway system.

Stop means, when required, complete cessation from movement.

Stop or *stopping* means, when prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

Street or *highway* means the entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel.

Through highway means every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter.

Traffic means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

Traffic-control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Traffic division means the traffic division of the police department of the city, or in the event a traffic division is not established, then such term whenever used herein shall be deemed to refer to the police department of the city.

Truck-tractor means a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting motorized bicycles and devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 1989, § 15-1; Ord. No. 11835, § I, 4-14-2008; Ord. No. 11873, § I, 4-20-2009)

Sec. 38-2. Adoption of model traffic ordinance.

The city adopts the model traffic ordinance of the state in its entirety, excluding RSMo 300.070. Any and all city ordinances or parts of ordinances in conflict with or inconsistent with the provisions of the model traffic ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this chapter.

Sec. 38-3. Application to public employees.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the

service of the United States government, this state, county, or city, and it shall be unlawful for any driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.
(Code 1989, § 15-2)

Sec. 38-4. Application to persons propelling pushcarts, riding animals.

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.
(Code 1989, § 15-3)

Sec. 38-5. Obedience to police, fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.
(Code 1989, § 15-4)

Sec. 38-6. Use of toy vehicles and motorized play vehicles.

(a) No person upon roller skates, rollerblades, skateboards, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any sidewalk or public street within the business district as described in section 44-97(a)(1) or upon any public park owned by the city or upon any parking lot owned by the city.

(b) Persons upon roller skates, rollerblades, skateboards, or riding in or by means of any coaster, toy vehicle, or similar device shall not ride on public streets wherever sidewalks are available.

(c) Persons riding upon roller skates, rollerblades, skateboards, or riding in or by means of any coaster, toy vehicle, or similar device, while using a public street or while crossing a street or a crosswalk, shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

(d) State law allows use of all-terrain vehicles under certain exceptions.
(Code 1989, § 15-5; Ord. No. 11085, §§ 2—4, 5-17-1993; Ord. No. 11835, § II, 4-14-2008; Ord. No. 11975, § I, 10-3-2011)

Sec. 38-7. Riding bicycles, sleds, roller skates by attaching to another vehicle, prohibited.

No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled, scooter or toy vehicle shall attach to any vehicle upon a roadway. Neither shall the driver of a vehicle knowingly pull a rider behind said vehicle.
(Code 1989, § 15-6; Ord. No. 10566, § 12, 5-2-1983)

Sec. 38-8. Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.
(Code 1989, § 15-7)

Sec. 38-9. Identification of funeral procession.

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the city.
(Code 1989, § 15-8)

Sec. 38-10. Seat belts required for passenger cars.

(a) As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles, and trucks with a licensed gross weight of 12,000 pounds or more.

(b) Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a city street or highway, and persons less than 18 years of age operating or riding in a truck, as defined in RSMo 301.010, on a city street or highway shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements.

(c) No person shall be stopped, inspected, or detained solely to determine compliance with this section. The provisions of this section and RSMo 307.178 shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this section shall not constitute probable cause for violation of any other provision of law.

(d) The provisions of this section shall not apply to the transporting of children under 16 years of age, as provided in RSMo 307.179. Each driver of a motor vehicle transporting a child less than 16 years of age shall secure the child in a properly adjusted and fastened restraint under RSMo 307.179.

(e) If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. The passengers occupying a seat location referred to in this subsection are not in violation of this section. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed under RSMo 302.178.

Sec. 38-11. Child restraints required when transporting children under 16 years of age.

(a) Every driver transporting a child under the age of 16 years shall be responsible, when transporting such child in a motor vehicle operated by that driver on the streets or highways of this city, for providing for the protection of such child as follows:

(1) Children less than four years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child.

(2) Children weighing less than 40 pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child.

(3) Children at least four years of age but less than eight years of age, who also weigh at least 40 pounds but less than 80 pounds, and who are also less than four feet, nine inches tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child.

(4) Children at least 80 pounds or children more than four feet, nine inches in height shall be secured by a vehicle safety belt or booster seat appropriate for that child.

(5) A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.

(6) When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. The driver transporting children referred to in this subsection is not in violation of this section.

This subsection shall only apply to the use of a child passenger restraint system or vehicle safety belt for children less than 16 years of age being transported in a motor vehicle.

(b) The provisions of this section shall not apply to any public carrier for hire. The provisions of this section shall not apply to students four years of age or older who are passengers on a school bus designed for carrying 11 passengers or more and which is manufactured or equipped pursuant to state minimum standards for school buses as school buses are defined in RSMo 301.010.
(Code 1989, § 15-9; Ord. No. 10778, §§ 1—6, 6-18-1987; Ord. No. 11314, §§ 1, 2, 11-3-1997; Ord. No. 11835, § III, 4-14-2008)

Sec. 38-12. Passengers in truck beds.

No person shall operate any truck, as defined in RSMo 310.010, with a licensed gross weight of less than 12,000 pounds when such truck is operated within the corporate limits of the city when any person under 18 years of age is riding in the unenclosed bed of such truck. No person under 18 years of age shall ride in the unenclosed bed of such truck when the truck is in operation. The provisions of this section shall not apply to:

(1) An employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;

(2) Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;

(3) Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan or exhibition which is authorized by law;

(4) Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling or jumping from the truck;

(5) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of participating in a special event and it is necessary that the person ride in such unenclosed bed due to a lack of available seating. The term "special event," for the purposes of this subsection, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;

(6) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or

(7) Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in such truck. For the purposes of this subsection the term "family" means any persons related within the first degree of consanguinity.

(Code 1989, § 15-10; Ord. No. 11314, § 2, 11-3-1997)

Secs. 38-13—38-42. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 38-43. Authority of police chief and state highway commission.

The police chief and state highway commission, or their legal agents, are hereby authorized for state or federally marked highways:

(1) To designate and establish speed and hazard zones of such kind, character and number and at such places as deemed warranted and necessary, and which will be of the greatest benefit to the general public.

(2) To erect warning and information signs or markings at a distance from certain locations which are deemed by them to be dangerous and hazardous, and such

other informational signs deemed beneficial to the general public or as a warning to the general public.

(3) To designate and mark lanes and no passing zones, as they are deemed warranted and beneficial to the general public, consistent with state laws and this chapter.

(4) To erect or place signs and markings establishing crossovers or crosswalks or prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, in their opinion, such stopping, standing and parking of any vehicle or obstruction would unduly interfere with the free movement of traffic thereon. Every person shall legally observe such signs and markings as authorized under this chapter or by state law.

(5) To designate, establish and prescribe rules and regulations for the operation of bus stops, loading and unloading zones and taxicab stands in such places and in such manner as they shall determine to be of the greatest benefit and convenience to the public. Every such bus stop, loading and unloading zone and taxicab stand shall be designated by appropriate signs. Every person shall legally observe such rules and regulations so authorized under this chapter.

(6) To prescribe rules and regulations for the vending, display or sale of merchandise and other wares or products upon any portion of the highway, streets and alleys in the municipality. When signs and markings are placed depicting "No Vending," or words to that effect, every person shall legally observe such signs, markings, rules or regulations.

(7) To designate, post and mark one-way roadways, rotary traffic islands and city squares for one-way traffic to the right.

(8) To designate certain highways, streets and alleys in the municipality as throughways, through streets and highways. All traffic shall come to a complete stop before entering or crossing such throughways, through streets and highways when the same are properly posted and marked with signs, signals, markings or traffic-control devices.

(Code 1974, § 13-11; Code 1989, § 15-31)

Sec. 38-44. Authority of police and fire department officials.

(a) It shall be the duty of the officers of the police department to enforce all street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.

(b) Officers of the police department or such officers as are assigned by the police chief are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire or accident/incident, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Code 1989, § 15-32)

Sec. 38-45. Emergency and experimental regulations.

(a) The police chief by and with the approval of the city engineer is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.

(b) The city engineer may test traffic-control devices under actual conditions of traffic.

(Code 1989, § 15-33)

Sec. 38-46. Traffic cases.

(a) The municipal court shall perform the clerical work of traffic cases. The court shall be in charge of such persons and shall be open at such hours as the municipal judge may designate.

(b) The judge of the municipal court who hears traffic cases shall designate the specified offenses under state law or under the traffic ordinances of the city in accordance with Supreme Court Rule No. 37.50 in respect to which payments of fines may be accepted by the municipal court in satisfaction thereof, and shall specify suitable schedules of the amount of such fines for first, second and subsequent offenses, provided such fines are within the limits declared by law or ordinance. Such judge shall further specify what number of such offenses shall require appearance before the court.
(Code 1974, § 13-12.1; Code 1989, § 15-34)

Sec. 38-47. Designation, maintenance of crosswalks, safety zones.

The city engineer is hereby authorized:

(1) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in the city engineer's opinion there is particular danger to pedestrians crossing the roadway, and at such other places as may be deemed necessary;

(2) To establish safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians.

(Code 1989, § 15-35)

Sec. 38-48. Traffic lanes.

(a) The city engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(b) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.
(Code 1989, § 15-36)

Sec. 38-49. When permits required for parades and processions.

No funeral, procession or parade containing 200 or more persons or 50 or more vehicles, except the forces of the United States Army or Navy, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued pursuant to the city council policy regarding traffic control modifications for special events and such other regulations as are set forth herein which may apply.
(Code 1989, § 15-37)

Sec. 38-50. Forms and records of traffic citations and arrests.

(a) The city shall provide books containing uniform traffic tickets as prescribed by Supreme Court Rule No. 37.46. Such books shall include serially numbered sets of citations in quadruplicate in the form prescribed by supreme court rule.

(b) Such books shall be issued to the police chief or duly authorized agent, a record shall be maintained of every book so issued and a written receipt shall be required for every book. The judges hearing municipal ordinance violation cases may require that a copy of such record and receipts be filed with the court.

(c) The police chief shall be responsible for the issuance of such books to individual members of the police department. The police chief shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.
(Code 1989, § 15-38)

Sec. 38-51. Procedure of police officers.

Except when authorized or directed under state law to immediately take a person before the municipal judge for the violation of any

traffic laws, a police officer who halts a person for such violation other than for the purpose of giving a warning or warning notice and does not take such person into custody under arrest, shall issue a uniform traffic ticket which shall be proceeded upon in accordance with Supreme Court Rule No. 37.
(Code 1989, § 15-39)

Sec. 38-52. Towing and impoundment of certain vehicles.

(a) *Authority of police officer (or other government agent) to tow abandoned property on the rights-of-way and public lands.*

(1) Vehicles may be towed when they:

a. Are used in a crime (from public or private lands).

b. Fail to comply within the allotted time of any snow removal or other traffic emergency notification.

c. Are abandoned on the public right-of-way or other public land. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove abandoned property (any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property whether or not operational) to a place of safety as follows:

1. Any abandoned property on the right-of-way of any state highway left unattended for more than 48 hours; or abandoned property on any public street, alley, or parking lot left unattended for a period of 48 hours or more and which has been tagged with an official 48-hour notice by the police department, provided that commercial motor vehicles not hauling waste designated as hazardous under 49 USC 5102(a) may only be removed to a place of safety after the owner or owner's representative has had a reasonable opportunity to contact a towing company of their choice.

2. Any unattended abandoned property illegally left standing upon any highway, street, alley, public parking lot or bridge in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal.

3. Any abandoned property which has been reported as stolen or taken without consent of the owner.

4. Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody where such person is unable to arrange for the property's timely removal.

5. Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations.

6. Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.

(2) Any government agent other than a law enforcement officer authorizing a tow in which the abandoned property is moved away from the immediate vicinity in

which it was abandoned shall report the towing to the state highway patrol within one hour of the tow along with a description of the abandoned property sufficient to make a criminal inquiry as required.

(3) Neither the law enforcement officer nor anyone having custody of abandoned property under their direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by RSMo 304.155 or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

(4) Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned shall have a lien for all reasonable charges for towing and storage until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record.

(5) Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided the ordinance is consistent with RSMo 304.155 to 304.158.

(b) *Authorizing a tow; use of state form DOR-4569.*

(1) Law enforcement agencies that authorize the tow of property, or any other vehicle, must make an inquiry with the National Crime Information Center (NCIC) and MULES to determine if the property has been reported as stolen. If not stolen, the law enforcement agency must then enter the abandoned property information into the statewide computer system.

(2) If the law enforcement agency that authorized the tow knows the registered owner or lienholder, the agency must notify the owner and lienholder in writing, within five working days, that the abandoned property was towed, the reason for the tow and the storage location of the abandoned property. A copy of the notice must be given to the operator of the storage facility. The notice must include the mileage of the vehicle at the time of removal.

(3) Law enforcement agencies must also submit a completed crime inquiry and inspection report/authorization to tow report, DOR-4569, to the director of revenue's motor vehicle bureau within ten working days of authorizing the towing, on any unclaimed abandoned property. A copy must be issued to the tow operator for that company's record as proof of authorization to tow the abandoned vehicle. The inspecting officer must document the following information on the report:

a. The year, model, make and identification number of the abandoned property;

b. A description of any damage to the abandoned property;

c. The license plate or registration number and the state of issuance, if available;

d. The storage location of the towed abandoned property;

e. The name, telephone number and address of the towing company;

f. The date, time, place and reason for the towing of the abandoned property;

g. The date of the inquiry of the National Crime Information Center (NCIC), any statewide law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen;

h. The signature and printed name of the law enforcement officer and the towing operator; and

i. Any additional information the director of revenue deems appropriate.

(4) The crime inquiry and inspection report/authorization to tow, DOR-4569, must be used by law enforcement agencies when authorizing a tow of abandoned property.

(5) The distribution of the crime inquiry and inspection report/authorization to tow, DOR-4569, is as follows:

a. One copy: Law enforcement forwards to MVB;

b. One copy: Law enforcement agency retains;

c. One copy: Towing company retains;

d. One copy: Storage facility retains; and

e. One copy: Towing company submits with title application.

(6) Upon receipt of the crime inquiry and inspection report/authorization to tow, DOR-4569, the motor vehicle bureau will within five working days perform a record search for the name and address of the owner and/or lienholder of record. The motor vehicle bureau will within 15 working days:

a. Notify the towing company and provide the name and address of the owner and lienholder of record, if applicable.

b. Notify the owner and lienholder of record, if applicable, that the department of revenue received notice that the abandoned property was towed.

(7) Within ten working days of the date of the letter sent by the department of revenue's motor vehicle bureau, the towing company must notify the owner and/or lienholder of record, if applicable, by certified mail, return receipt requested, and advise the owner and/or lienholder, if applicable, they have 30 days from the date of mailing of the notice to redeem the abandoned property. The vehicle owner and lienholder notification, DOR-4577, must be used by the towing company for this purpose.

(c) *Authority of police department; towing abandoned property on private lands.*

(1) If a person abandons property on any real property (private property) owned by another without the consent of the owner or person in possession of the property, the abandoned property can be removed at the request of the person in possession of the real property by contacting any member of the state highway patrol, sheriff or other law enforcement officer within this jurisdiction.

(2) The appropriate law enforcement officer may authorize a towing company to remove such abandoned property in the following situation:

a. The abandoned property is left unattended for more than 48 hours; or

b. If, in the judgement of the law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

(d) *Authority of private property owner to tow abandoned property on owner's lands.*

(1) The owner of real property or lessee in lawful possession of the real property may authorize a towing company to remove abandoned property without authorization by a law enforcement officer only when the owner, lessee or agent of the real property is present and only in the following circumstances:

a. There is displayed, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property will be removed at the owner's expense, disclosing the maximum

fee for all charges related to towing and storage and containing the telephone number of the local traffic law enforcement agency where information can be obtained;

b. The abandoned property is on private property and lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment necessary to operate safely on the highways; the owner or lessee of the private property has notified the city police or county sheriff, as appropriate; and 96 hours have elapsed since that notification; or

c. The abandoned property is left unattended on private property and the owner, lessee or agent of the real property in lawful possession of the real property has notified the appropriate law enforcement agency, and ten days have elapsed since that notification.

(2) Any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall within one hour of the tow file an abandoned property report with the appropriate law enforcement agency where the property is located. DOR-4569 will be completed by the owner of the property, or the dispatcher, or a police officer.

(3) Any towing company which tows abandoned property without authorization from a law enforcement officer shall within one hour of the tow report the event and the circumstances to the local law enforcement agency where the abandoned property report was filed. DOR-4569 will be completed by the towing company or the police officer.

(e) *Towing company issues.*

(1) A towing company which tows abandoned property for hire shall have the towing company's name, city and state clearly printed in letters at least three inches in height on the side of the truck, wrecker or the vehicle used in the towing.

(2) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of abandoned property at the request of the owner of private property or that owner's agent if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

(3) Any towing company that removed abandoned property at the direction of the landowner shall be responsible for:

a. Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and

b. The removal of property other than the property specified by the owner of the private property from which the abandoned property was removed.

(4) Any towing company, or any affiliate of a towing company, which removes, or commences removal of abandoned property from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who is present at the time of removal or commencement of the removal is liable to the owner of the property for four times the amount of the towing and storage charges, in addition to any applicable criminal penalty.

(5) The city may enact ordinances or orders which are consistent with RSMo 304.155 to 304.158, and may specify maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the city's jurisdiction.

(f) *Redemption of property.*

(1) The owner of abandoned property removed shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property.

(2) The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

(3) Any personal property within the abandoned property need not be released to the owner until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except any medication prescribed by a physician. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property.

(4) A towing company may assess storage charges for abandoned property only for the time in which it complies with RSMo 304.156.

(5) Towing companies shall keep a record for three years on any abandoned property towed not reclaimed by the owner of the abandoned property. Such record shall contain a copy of the law enforcement officer's authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property and information concerning the final disposition of the possession of the abandoned property.

(6) If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel by having such property towed, then the towing company and the lienholder shall notify the state highway or water patrol of such tow within one hour of the tow being made and shall further provide the patrol with any additional information the patrol deems appropriate.

(Code 1974, §§ 13-11.1, 13-12; Code 1989, § 15-42; Ord. No. 11269, § 1, 11-4-1996)

Sec. 38-53. Handicapped parking.

(a) There are hereby established handicapped parking spaces as approved by the city council and retained by list in the office of the city clerk.

(b) No person, other than one who is handicapped, or one who is transporting a handicapped person, shall park, or permit to remain parked, a vehicle operated and controlled by the person in the handicapped parking space established herein; nor shall any person park or permit to remain parked, any vehicle registered in that person's name, in the handicapped parking spaces established herein, unless the vehicle shall have been parked in connection with transporting a handicapped person.

(c) The city engineer is hereby authorized to place appropriate pavement markings and/or signs designating parking spaces as handicapped parking only.

(d) It shall be the duty of the police department to enforce the provisions of this section, and any person who shall violate the provisions of subsection (b) of this section shall be deemed guilty of an ordinance violation and be punished by a fine as allowed by law, plus court costs.

(e) Any person or corporation in lawful possession of a public off-street parking facility may designate reserved parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card, issued pursuant to RSMo 301.071 or 301.142, as close as possible to the nearest accessible entrance. Such designation shall be made by posting immediately adjacent to, and visible from each space, a sign upon which is inscribed the international symbol of accessibility in white on a blue background,

and may also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card.

(f) Spaces designated for use by vehicles displaying the distinguishing disabled license plate issued pursuant to RSMo 301.142 or 301.071 shall be 12 feet wide or greater, or shall be open on one or both sides so as not to impede the safe egress and exit of the disabled person.

(g) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.
(Code 1989, § 15-43; Ord. No. 10507, §§ 1—4, 2-16-1982; Ord. No. 10930, § 1, 7-16-1990; Ord. No. 11032, §§ 1, 2, 4-20-1992; Ord. No. 11048, 7-20-1992; Ord. No. 11069, 2-1-1993; Ord. No. 11076, § 1, 3-15-1993; Ord. No. 11080, §§ 1—3, 4-19-1993; Ord. No. 11148, § 1, 6-6-1994; Ord. No. 11257, § 1, 7-15-1996; Ord. No. 11269, §§ 1—4, 11-4-1996; Ord. No. 11282, §§ 1—4, 2-17-1997; Ord. No. 11304, §§ 1, 2, 8-18-1997; Ord. No. 11453, § 1, 6-5-2000; Ord. No. 11459, § 1, 7-17-2000; Ord. No. 11624, § I, 7-7-2003; Ord. No. 11670, § 1, 5-24-2004; Ord. No. 11768, § I, 8-2-2006; Ord. No. 11873, § II, 4-20-2009; Ord. No. 11882, § 1, 7-20-2009; Ord. No. 11923, §§ I, II, 5-17-2010; Ord. No. 12033, § I, 12-3-2012; Ord. No. 12196, § I, 2-1-2016)

Sec. 38-54. City engineer.

(a) The office of city engineer is established. The city engineer or other designated city official shall serve as city engineer in addition to other functions, and shall exercise the powers and duties with respect to traffic as provided in this section.

(b) The city engineer shall determine the installation and proper timing and maintenance of traffic-control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering investigations of traffic conditions, plan the operation of traffic on the streets and highways of the city, and cooperate with other city officials in the development of ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by ordinances of the city.
(Code 1989, § 15-45)

Sec. 38-55. Outstanding parking violations.

Any outstanding parking violations issued on any vehicle within the city which is subject to personal property tax within the county in which the automobile is located shall be included as charges on all tax bills for personal property within said county. The city shall furnish the person responsible for collecting personal property tax revenue with sufficient documentation that unpaid parking tickets are outstanding and should be collected with personal property taxes.
(Code 1989, § 15-47; Ord. No. 11418, § 1, 11-1-1999)

Sec. 38-56. Collector responsibility.

So long as the city contracts with the county collector for the collection of personal property taxes, the county collector shall collect those parking violation charges described in section 38-55 with and in the same payment as personal property taxes are collected by said collector. No personal property tax bill shall be considered paid unless all charges for parking violations are also paid in full, and the collector of revenue shall not issue a paid personal property receipt until all such charges are paid.
(Code 1989, § 15-48; Ord. No. 11418, § 2, 11-1-1999)

Sec. 38-57. Claims of non-liability for parking tickets.

If any person should claim that there is no liability for the outstanding violation notices issued on said vehicle, that person shall be required to pay all the charges on the bill in order to get a receipt, and thereafter must submit to the city attorney within 30 days evidence that the claimant thinks will exonerate the person from the parking violation. If the city attorney accepts such evidence, the city will dismiss the ticket and the funds will be returned by the city to the vehicle owner that had paid under protest. If no request is received during

the 30 days following payment, it will be presumed that the charge is valid and proper and will be shown thus on all municipal court records. In the event the city attorney does not agree with the evidence produced, either the city attorney or the claimant can request a trial on the original parking violations charge in the circuit court of the county
(Code 1989, § 15-49; Ord. No. 11418, § 3, 11-1-1999)

Secs. 38-58—38-87. Reserved.

DIVISION 2. TRAFFIC DIVISION

Sec. 38-88. Duty generally.

The police officers commissioned to write municipal ordinance violations shall enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations (as appropriate), to investigate accidents and to cooperate with the city engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties especially imposed upon the division by this chapter and the traffic ordinances of the city.
(Code 1989, § 15-62)

Sec. 38-89. Records.

(a) The police department shall keep a record of all violations of the traffic ordinances of the city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. The record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(b) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be available to the public showing the disposal of all such forms.

(c) All such records and reports shall be public records.
(Code 1989, § 15-63)

Sec. 38-90. Traffic accident studies.

Whenever the accidents at any particular location become numerous, the police department shall cooperate with the city engineer in conducting studies of such accidents and determining remedial measures.
(Code 1989, § 15-64)

Sec. 38-91. Traffic accident reports.

The police department shall maintain a suitable system of filing traffic accident reports. Such reports shall be available for the use and information of the city engineer.
(Code 1989, § 15-65)

Sec. 38-92. Driver files to be maintained.

The police department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.
(Code 1989, § 15-66)

Sec. 38-93. Annual traffic safety report.

The traffic division shall annually prepare a traffic report which shall be filed with the mayor. Such report shall contain information on traffic matters in the city as follows:

(1) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;

(2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police;

(3) The plans and recommendations of the division for future traffic safety activities.

(Code 1989, § 15-67)

Secs. 38-94—38-114. Reserved.

DIVISION 3. TRAFFIC VIOLATIONS BUREAU

Sec. 38-115. Election to appear.

(a) Any person charged with an offense for which payment of a fine shall have the option of paying such fine within the time specified in the notice of arrest upon entering a plea of guilty and upon waiving appearance in court; or may have the option of depositing required lawful bail, and upon a plea of not guilty shall be entitled to a trial as authorized by law.

(b) The payment of a fine shall be deemed an acknowledgment of conviction of the alleged offense, and, upon accepting the prescribed fine, a receipt to the violator acknowledging payment thereof shall be issued.
(Code 1989, § 15-82)

Sec. 38-116. Duties.

The following duties are hereby imposed upon the police department in reference to traffic offenses:

(1) It shall accept designated fines, issue receipts, and represent in court such violators as are permitted and desired to plead guilty, waive court appearance, and give power of attorney;

(2) It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket, and notify the arresting officer and witnesses, if any, to be present.

(Code 1989, § 15-83)

Sec. 38-117. Records.

The police department shall keep records and submit to the judges hearing violations of municipal ordinances summarized monthly reports of all notices issued and arrests made for violations of the traffic laws and ordinances in the city and of all the fines collected by the city or the court, and of the final disposition or present status of every case of violation of the provisions of such laws and ordinances. Such records shall be so maintained as to show all types of violations and the totals of each. Such records shall be public records.
(Code 1989, § 15-84)

Sec. 38-118. Additional duties.

The police department shall follow such procedure as may be prescribed by the traffic ordinances of the city or as may be required by any laws of the state.
(Code 1989, § 15-85)

Secs. 38-119—38-149. Reserved.

DIVISION 4. MOTOR VEHICLE OPERATOR RESPONSIBILITIES

Sec. 38-150. Operating a motor vehicle without a driver's license.

(a) It is unlawful for any person to operate a motor vehicle upon any street in the city unless such person has a valid state driver's license or unless such person is legally licensed to operate a motor vehicle in the state of residence.

(b) It is unlawful for any person to operate a motorcycle or motor tricycle upon any street in the city unless such person has passed an examination for the operation of a motorcycle or motor tricycle as prescribed by the state director of revenue or unless such person is legally licensed to operate a motorcycle or motorcycle or motor tricycle in the state of residence.

(c) No person shall operate a motorized bicycle on any highway or street in the city, unless that person has a valid license to operate a motor vehicle.
(Code 1989, § 15-91; Ord. No. 11775, § 1, 9-20-2006; Ord. No. 11835, § IV, 4-14-2008)

Sec. 38-151. Driving a motor vehicle while driver's license suspended or revoked.

It is unlawful for any person to drive a motor vehicle upon any street in the city while such person's license and driving privilege as a state

resident or nonresident has been canceled, suspended or revoked under the provisions of state law.
(Code 1989, § 15-92; Ord. No. 11775, § 1, 9-20-2006)

Sec. 38-152. Failure to exhibit proof of insurance.

(a) It is unlawful for any person operating a motor vehicle in the city to fail to exhibit proof of motor vehicle liability insurance on the demand of any peace officer who lawfully stops such operator or investigates an accident involving the vehicle while the officer is engaged in the performance of the officer's duties. The operator of a motor vehicle shall exhibit proof of motor vehicle liability insurance by presenting to the officer one of the following showing that the motor vehicle is covered by motor vehicle liability insurance:

(1) The insurance identification card required by the state to be carried in an insured motor vehicle at all times;

(2) A motor vehicle liability insurance policy;

(3) A motor vehicle liability insurance binder;

(4) A receipt which contains the policy information required on the insurance identification card required by the state to be carried in an insured motor vehicle at all times; or

(5) Display of electronic images on a cellular phone or any other type of portable electronic device.

(b) No person shall be found guilty of violating this section if the person demonstrates to the court that the person met the financial responsibility requirements of RSMo 303.025 at the time of the alleged violation.
(Code 1989, § 15-93; Ord. No. 11775, § 1, 9-20-2006)

Sec. 38-153. Lights on vehicles generally.

All vehicles being operated on the streets of the city between the time of one-half hour after sunset and one-half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street at a distance of 500 feet ahead, shall be equipped with and have in operation, headlights and taillights, as provided by state law.
(Code 1989, § 15-94; Ord. No. 11775, § 1, 9-20-2006)

Sec. 38-154. Display of state license plates.

It is unlawful for any person to operate a motor vehicle upon any street in the city unless the vehicle is validly licensed under the motor vehicle laws of the state or the laws of any other jurisdiction and such license is displayed in conformance with, the laws of the jurisdiction in which the vehicle is licensed.
(Code 1989, § 15-95; Ord. No. 11775, § 1, 9-20-2006; Ord. No. 11835, § V, 4-14-2008)

Sec. 38-155. Duties of drivers meeting or overtaking school buses; required marking.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus which has stopped on the street for the purpose of receiving or discharging any school children, and whose driver has in the manner prescribed by law given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by its driver to proceed.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words "School Bus" in letters not less than eight inches in height. Each bus shall have lettered on the rear in plain and distinct type the following: "State Law: Stop While Bus Is Loading and Unloading." Each school bus shall be equipped with a mechanical or electrical signaling device, which will display a signal plainly visible from the front and rear indicating intention to stop.

(c) If any vehicle is witnessed by a peace officer or the driver of a school bus to have violated the provisions of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered

committed the violation. In the event that charges are filed against multiple owners of a motor vehicle, only one of the owners may be convicted and court costs may be assessed against only one of the owners. If the vehicle which is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the presumption by providing the peace officer or prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation. No prosecuting authority may bring any legal proceedings against a rental or leasing company under this section unless prior written notice of the violation has been given to that rental or leasing company by registered mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within 15 days of receipt of such notice.
(Code 1989, § 15-96; Ord. No. 11775, § 1, 9-20-2006; Ord. No. 11835, § VI, 4-14-2008)

Secs. 38-156—38-178. Reserved.

ARTICLE III. BICYCLES

Sec. 38-179. Application of article.

The provisions of this article shall apply whenever a bicycle is operated upon any street or highway or upon any pathway or sidewalk, except as herein otherwise provided.
(Code 1989, § 15-101; Ord. No. 10566, § 1, 5-2-1983)

Sec. 38-180. Application of traffic laws.

Every person riding a bicycle upon a street or roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the state declaring rules of the road applicable to vehicles or by the traffic ordinances of the city applicable to the driver of a vehicle, except as herein otherwise provided, and except as to those provisions of laws and ordinances which by their nature can have no reasonable application.
(Code 1989, § 15-102; Ord. No. 10566, § 2, 5-2-1983)

Sec. 38-181. Obedience to traffic-control devices.

(a) Any person operating a bicycle on a street or roadway shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) When authorized signs are erected indicating that no right or left or "U" turn is permitted, a person operating a bicycle shall obey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.
(Code 1989, § 15-103; Ord. No. 10566, § 3, 5-2-1983)

Sec. 38-182. Operation generally.

(a) A person propelling a bicycle shall have it under control at all times, and shall ride it in a manner which will in no way endanger any person or property.

(b) A person propelling a bicycle on a public street shall not ride other than astride a permanent and regular seat attached thereto.

(c) No bicycle operated on a public street shall be used to carry more persons at one time than the number for which it was designed and equipped.
(Code 1989, § 15-104; Ord. No. 10566, § 4, 5-2-1983)

Sec. 38-183. Riding on roadways.

(a) Every person operating a bicycle upon a street or roadway shall ride as near to the right side of the street or roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a street or roadway shall ride single file except on paths or parts of streets or roadways set aside for the exclusive use of bicycles.
(Code 1989, § 15-105; Ord. No. 10566, § 5, 5-2-1983)

Sec. 38-184. Riding bicycle on sidewalks, motorized bicycles prohibited.

(a) No person shall ride a bicycle upon a sidewalk in the business district as described in section 44-79(a)(1).

(b) In the business district as described in section 44-97(a)(1) no person shall attach a bicycle to any fixed object, including, but not limited to, down spouts, awning supports, trash receptacles, or trees.

(c) In the business district as described in section 44-97(a)(1) bicycles shall only be secured to bike racks located throughout the downtown area.

(d) Whenever any person is riding a bicycle upon a sidewalk outside the business district as defined in subsections (a) through (c) of this section, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(e) No person shall ride a motorized bicycle upon a sidewalk.
(Code 1989, § 15-106; Ord. No. 10566, § 5, 5-2-1983; Ord. No. 11546, § 1, 1-21-2002; Ord. No. 11975, § II, 10-3-2011)

Sec. 38-185. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under conditions then existing.
(Code 1989, § 15-107; Ord. No. 10566, § 7, 5-2-1983)

Sec. 38-186. Emerging from alley or driveway.

The operator of a bicycle from an alley, driveway or building shall, upon approaching a sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on such sidewalk or sidewalk area, and upon entering the street or roadway, shall yield the right-of-way to all vehicles approaching on the street or roadway.
(Code 1989, § 15-108; Ord. No. 10566, § 8, 5-2-1983)

Sec. 38-187. Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.
(Code 1989, § 15-109; Ord. No. 10566, § 9, 5-2-1983)

Sec. 38-188. Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.
(Code 1989, § 15-110; Ord. No. 10566, § 10, 5-2-1983)

Sec. 38-189. Lamps and other equipment.

(a) Every bicycle when in use at nighttime shall be equipped with a white light mounted to the front of the bicycle or carried by the rider which shall emit a white light visible from a distance of at least 500 feet to the front, a rear-facing red reflector at least two square inches visible at 600 feet, colorless or amber reflectors on both front and rear surfaces of all pedals which can be seen for 200 feet, a side facing colorless or amber reflector on each of front wheels mounted on wheel spokes, and a colorless or red reflector mounted on rear spokes which can be seen at 300 feet.

(b) Every bicycle shall be equipped with a brake which will enable its driver to stop the bicycle within 25 feet from a speed of ten miles per hour on dry, level, clean pavement.
(Code 1989, § 15-111; Ord. No. 10566, § 11, 5-2-1983)

Sec. 38-190. Right to inspect.

Any police officer may at any time have the right to inspect any bicycle by inspecting the brakes and nighttime lighting system and require the owner or operator to put the same in safe operating condition.
(Code 1989, § 15-112; Ord. No. 10566, § 13, 5-2-1983)

Secs. 38-191—38-218. Reserved.

ARTICLE IV. OPERATION

DIVISION 1. GENERALLY

Sec. 38-219. Driving in careful, prudent manner.

Every person operating or driving a motor vehicle shall drive and operate the same in a careful and prudent manner and shall exercise at all times the highest degree of care in the operation of the same.
(Code 1974, § 13-10.5; Code 1989, § 15-151)

Sec. 38-220. Driving while intoxicated.

No person shall operate a motor vehicle while in an intoxicated or drugged condition.
(Code 1974, § 13-10.1; Code 1989, § 15-152)

Sec. 38-221. Alcohol content in blood generally.

No person shall drive a motor vehicle with 8/100 of one percent of alcohol or more by weight in their blood.
(Code 1974, § 13-10.2; Code 1989, § 15-153; Ord. No. 11527, § 1, 10-1-2001)

Sec. 38-222. Presumptions of intoxication.

(a) Upon trial of any violation of section 14-220 or 14-221 arising out of acts alleged to have been committed by a person while driving a motor vehicle while intoxicated or with blood alcohol content of 8/100 of one percent or more by weight, the amount of alcohol in the person's blood at the time of the act alleged as shown by chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence. Such evidence shall be given the following effect, and the provisions of RSMo 491.060(5) shall not prevent the admissibility or introduction of such evidence if otherwise admissible. If there was 8/100 of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

(b) As used in this article, percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood or 210 liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of RSMo 577.020 to 577.041.

(c) The forgoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.

(d) The charge alleging driving while intoxicated or driving under the influence of alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva, or urine performed in accordance with RSMo 577.020 to 577.041 and rules promulgated thereunder by the state division of health demonstrate that there was less than 8/100 of one percent of alcohol in the defendant's blood unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

(Code 1974, § 13-10.3; Code 1989, § 15-154; Ord. No. 11527, § 2, 10-1-2001; Ord. No. 11775, § 2, 9-20-2006)

Sec. 38-223. Traffic interference.

(a) It shall be unlawful for any person to interfere with automobile or pedestrian traffic. A person commits the crime of traffic interference if, while at a public place or on the private property of another without consent, the person knowingly and unreasonably physically obstructs:

(1) Vehicular or pedestrian traffic; or

(2) The free ingress or egress to or from a public or private place.

(b) If any person shall permit a violation of this section to continue after notice to desist, each additional violation shall be considered a separate offense.

(c) In any proceeding for the violation of this section, the tenants, owners and/or occupants, after proper notice of the violations, shall be considered equally responsible for committing or allowing to commit a violation from the location or occupancy under their control.

(Code 1989, § 15-155; Ord. No. 10692, §§ 1, 2, 10-21-1985)

Sec. 38-224. Operation of authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as the driver does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

(Code 1989, § 15-156)

Sec. 38-225. Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Code 1989, § 15-157)

Sec. 38-226. Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(Code 1989, § 15-158)

Sec. 38-227. Controlled access.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

(Code 1989, § 15-159)

Sec. 38-228. Driving in procession.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.
(Code 1989, § 15-160)

Sec. 38-229. Driving through funeral or other procession.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this article. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.
(Code 1989, § 15-161)

Sec. 38-230. Vehicle shall not be driven on sidewalk.

The driver of a vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway.
(Code 1989, § 15-162)

Sec. 38-231. Riding on motorcycles, additional passenger, requirements.

(a) A person operating a motorcycle, motorized bicycle, moped, or scooter shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator.

(b) The operator of a motorized bicycle shall ride only astride the permanent and regular seat attached thereto, and shall not permit more than one person to ride thereon at the same time, unless the motorized bicycle is designed to carry more than one person. Any motorized bicycle designed to carry more than one person must be equipped with a passenger seat and footrests for the use of a passenger.
(Code 1989, § 15-163)

Sec. 38-232. Limitations on backing.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.
(Code 1989, § 15-164)

Sec. 38-233. Following fire apparatus prohibited.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.
(Code 1989, § 15-165)

Sec. 38-234. Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.
(Code 1989, § 15-166)

Sec. 38-235. Commercial vehicles prohibited from using certain streets.

In cases where an equally direct and convenient alternate route is provided, an ordinance may describe, and signs may be erected giving notice thereof, that no persons shall operate any commercial vehicle upon streets or parts of streets so described except those commercial vehicles making deliveries thereon.
(Code 1989, § 15-167)

Sec. 38-236. Avoiding traffic-control device or sign; penalty.

It shall be unlawful for the driver of any vehicle to drive such vehicle across private or public property to avoid an official traffic-control device or an official traffic-control sign.
(Code 1989, § 15-170; Ord. No. 10815, §§ 1, 2, 4-6-1988)

Sec. 38-237. Motor vehicle traffic prohibited on hike/bike trail.

Motor vehicle traffic not expressly authorized by the city is prohibited on any portion of the city's hike/bike trail that has been properly identified by appropriate signage.
(Code 1989, § 15-171; Ord. No. 11358, § 1, 11-16-1998)

Sec. 38-238. Windows and windshields must be unobstructed, and windshields must be equipped with wipers.

(a) No person shall drive any motor vehicle with any object suspended or mounted in any manner between the driver and the front windshield or with any sign, poster, snow, ice or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle, which obstructs or interferes with the driver's clear view of the street, or which might divert the driver's attention from the street.

(b) No person shall drive any motor vehicle with the windshield, side wings or side or rear windows of such vehicle broken or cracked in such a manner as to obstruct or interfere with the driver's clear view of the street.

(c) The windshield of every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle, and shall be maintained in good working order.
(Code 1989, § 15-172; Ord. No. 12010, § 1, 6-18-2012)

Sec. 38-239. Distance from other vehicles.

The driver of a vehicle shall not follow another vehicle or cycle more closely than is reasonably safe and prudent, having due regard for the speed of such vehicle or cycle and the traffic upon and the condition of the roadway. Vehicles being driven upon any roadway outside of a business or residential district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated, except in a funeral procession or in a duly authorized parade, so as to allow sufficient space between each such vehicle or combination of vehicles to enable any other vehicle or cycle to overtake or pass such vehicles in safety.
(Code 1989, § 15-173; Ord. No. 12010, § 2, 6-18-2012)

Secs. 38-240—38-256. Reserved.

DIVISION 2. OVERTAKING AND PASSING

Sec. 38-257. Passing vehicle at crosswalk.

Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.
(Code 1989, § 15-186)

Secs. 38-258—38-277. Reserved.

DIVISION 3. RIGHT-OF-WAY

Sec. 38-278. Operation of vehicles on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of audible signal only, The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and

shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.
(Code 1989, § 15-201)

Sec. 38-279. Emerging from alley, driveway or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
(Code 1989, § 15-202)

Secs. 38-280—38-306. Reserved.

DIVISION 4. TURNING MOVEMENTS

Sec. 38-307. Required position and method of turning at intersection.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(Code 1989, § 15-216)

Sec. 38-308. Authority to place restricted turn signs.

The city engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.
(Code 1989, § 15-217)

Sec. 38-309. Authority to place and obedience to turning markers.

(a) The city engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(b) When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.
(Code 1989, § 15-218)

Sec. 38-310. Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.
(Code 1989, § 15-219)

Sec. 38-311. Limitations on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.
(Code 1989, § 15-220)

Secs. 38-312—38-340. Reserved.

DIVISION 5. SPEED

Sec. 38-341. State speed laws applicable; local variation.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the city, except that the city may by ordinance declare and determine upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof, but no city ordinance shall regulate the speed of vehicles upon controlled-access highways of the state.
(Code 1974, § 13-5; Code 1989, § 15-236)

Sec. 38-342. Regulation of speed by traffic signals.

The city engineer is authorized to regulate the timing of city owned traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.
(Code 1989, § 15-237)

Sec. 38-343. Hazardous conditions.

No person shall drive a vehicle on any street at a greater speed than is reasonable and prudent under the conditions then and there existing. Where no special hazards exist, the speeds established as maximums by section 38-615 shall be lawful, but any speed in excess of such limits shall be prima facie evidence that such speed is not reasonable and is unlawful.
(Code 1974, § 13-5; Code 1989, § 15-238)

Sec. 38-344. Degree of care required.

Notwithstanding the provisions of this division as to speed, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any vehicle or any pedestrian upon any street, alley or highway in the city and shall exercise such care and proper precaution upon observing a child or any aged, confused or incapacitated person upon or crossing a roadway.
(Code 1974, § 13-5; Code 1989, § 15-239)

Sec. 38-345. Minimum speeds.

It shall be unlawful for any person to drive at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation. Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with the direction of an officer in accordance herewith, the continued slow operation by a driver shall be unlawful.
(Code 1974, § 13-6; Code 1989, § 15-240)

Secs. 38-346—38-363. Reserved.

DIVISION 6. ONE-WAY STREETS

Sec. 38-364. Movement of traffic generally.

Upon those streets and parts of streets and in those alleys described and designated by ordinance, vehicular traffic shall move only in the indicated direction when signs indicating the

direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.
(Code 1989, § 15-251)

Sec. 38-365. Placement, maintenance of signs.

Whenever any ordinance of the city designates any one-way street or alley the city engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.
(Code 1989, § 15-252)

Sec. 38-366. Authority to restrict direction of movement on streets during certain periods.

(a) The city engineer or public works director is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period of the day and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The city engineer or public works director may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway. The city engineer or public works director may also erect detour, closed road, or other traffic-control devises during certain periods to restrict or detour the flow of vehicle and pedestrian traffic.

(b) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.
(Code 1989, § 15-253)

Secs. 38-367—38-390. Reserved.

DIVISION 7. STOP STREETS, ETC.

Sec. 38-391. Through streets designated.

Those streets and parts of streets described by ordinances of the city are declared to be through streets for the purposes of this division.
(Code 1989, § 15-266)

Sec. 38-392. Signs required at through streets.

Whenever any ordinance of the city designates and describes a through street it shall be the duty of the city engineer to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at an intersection, a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of such streets as may be determined by the city engineer upon the basis of an engineering and traffic study.
(Code 1989, § 15-267)

Sec. 38-393. Other intersections where stop or yield required.

The city engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one or more entrances to any such intersection, in which event the engineer shall cause to be erected a stop sign at every such place where a stop is required, or whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in section 38-396, in which event the engineer shall cause to be erected a yield sign at every place where obedience thereto is required.
(Code 1989, § 15-268)

Sec. 38-394. Stop and yield signs.

(a) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of

the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(b) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.
(Code 1989, § 15-269)

Sec. 38-395. Vehicle entering stop intersection.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by section 14-394(b), and having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.
(Code 1989, § 15-270)

Sec. 38-396. Vehicle entering yield intersection.

The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided, however, that if such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of failure to yield right-of-way.
(Code 1989, § 15-271)

Secs. 38-397—38-420. Reserved.

ARTICLE V. PEDESTRIANS

Sec. 38-421. Pedestrians subject to traffic-control devices.

Pedestrians shall be subject to traffic-control signals as declared in sections 38-527 and 38-528, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.
(Code 1989, § 15-291)

Sec. 38-422. Pedestrians' rights-of-way in crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that is impossible for the driver to yield.

(c) Subsection (a) of this section shall not apply under the conditions stated in section 38-425(b).
(Code 1989, § 15-292)

Sec. 38-423. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.
(Code 1989, § 15-293)

Sec. 38-424. When pedestrian shall yield.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) The foregoing rules in this section have no application under the conditions stated in section 38-426 when pedestrians are prohibited from crossing at certain designated places.
(Code 1989, § 15-295)

Sec. 38-425. Prohibited crossing.

(a) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(b) No pedestrian shall cross a roadway other than in a crosswalk in any business district.

(c) No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by ordinance.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.
(Code 1989, § 15-296)

Sec. 38-426. Pedestrians walking along roadways.

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
(Code 1989, § 15-297)

Sec. 38-427. Drivers to exercise highest degree of care.

Notwithstanding the provisions of this chapter regulating traffic-control devices, speed, turning movements, one-way streets and alleys, pedestrians' rights and duties, and those miscellaneous driving rules corresponding to RSMo 300.300 through 300.365, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.
(Code 1989, § 15-299)

Secs. 38-428—38-454. Reserved.

ARTICLE VI. STOPPING, STANDING AND PARKING

Sec. 38-455. Scope of article.

The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.
(Code 1989, § 15-316)

Sec. 38-456. Regulations not exclusive.

The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.
(Code 1989, § 15-317)

Sec. 38-457. Parking signs required.

Whenever by this article or any ordinance of the city any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the city engineer to erect appropriate signs giving notice thereof and no

such regulations shall be effective unless signs are erected and in place at the time of any alleged offense.
(Code 1989, § 15-318)

Sec. 38-458. Parking prohibited at all times on certain streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described by ordinance.
(Code 1989, § 15-319)

Sec. 38-459. Parking prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified by ordinance of any day except Sunday and public holidays within the district or upon any of the streets described by ordinance.
(Code 1989, § 15-320)

Sec. 38-460. Stopping, standing or parking prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall stop, stand, or park a vehicle between the hours specified by ordinance of any day except Sundays and public holidays within the district or upon any of the streets described by ordinance.
(Code 1989, § 15-321)

Sec. 38-461. Standing or parking close to curb.

(a) Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway must park parallel to and within 18 inches of the edge of the roadway.

(b) Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway or upon a public right-of-way must stop or park in such a manner consistent with the direction of travel of the nearest lane of traffic. Vehicles shall not stop or park in a manner where they must cross an on-coming lane of traffic to do so.
(Code 1989, § 15-322; Ord. No. 11250, § 4, 6-3-1996)

Sec. 38-462. Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 12 feet of the width of the roadway for free movement of vehicular traffic.
(Code 1989, § 15-323)

Sec. 38-463. Stopping, standing or parking prohibited.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(1) Stop, stand or park a vehicle:

a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

b. On a sidewalk;

c. Within an intersection;

d. On a crosswalk;

e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings;

f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

h. At any place where official signs prohibit stopping;

i. Next to or alongside a curb that is painted yellow.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:

a. In front of a public or private driveway;

b. Within 15 feet of a fire hydrant;

c. Within 20 feet of a crosswalk at an intersection;

d. Within 30 feet upon the approach to any flashing signal, stop sign, or traffic-control signal located at the side of a roadway;

e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly signposted);

f. At any place where official signs prohibit standing;

g. In a fire lane.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers at any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under the person's control into any such prohibited area or away from a curb such a distance as is unlawful.
(Code 1989, § 15-324; Ord. No. 11140, § 1, 4-4-1994)

Sec. 38-464. Fire lanes—Generally.

(a) *Designation.* The fire chief may designate fire lanes on private and public property as shall be necessary for the efficient and effective use of fire apparatus and other emergency vehicles. Following designation of a fire lane by the fire chief, the matter shall be forwarded to the city council for final approval. Fire lanes may be established on driveways and access roads serving properties used for commercial and industrial functions as provided by the zoning ordinance.

(b) *Minimum width; signs.* Fire lanes shall be a minimum of 15 feet in width and such area shall be designated by signs at each end of the lane which say "No Parking—Fire Lane."

(c) *Posting of signs.* Upon written notice by the fire chief of the council's approval of a fire lane, it shall be the duty of the owner, occupants or their agents of the premises upon which the fire lane has been designated to post proper signs and to maintain such signs in good condition.

(d) *Parking of nonemergency vehicles.* It shall be unlawful for nonemergency vehicles to park in designated fire lanes.
(Code 1989, § 15-324.5; Ord. No. 11139, §§ 1—4, 4-4-1994)

Sec. 38-465. Fire lanes—Commercial and industrial locations.

(a) *List of fire lanes.* A list of existing designated fire lanes, as approved by the city council, is on file in the office of the city clerk.

(b) *Authorization.*A list of existing designated fire lanes as approved by the city council is on file in the office of the city clerk. The fire chief is authorized to establish fire lanes at any location designated on such list.
(Code 1989, § 15-324.6; Ord. No. 11587, §§ 1, 2, 9-3-2002; Ord. No. 11716, § 1, 6-27-2005)

Sec. 38-466. Parking adjacent to schools.

(a) The city engineer is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in the city engineer's opinion, interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.
(Code 1989, § 15-325)

Sec. 38-467. Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 12 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.
(Code 1989, § 15-326)

Sec. 38-468. Standing or parking on one-way roadways.

In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The city engineer is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.
(Code 1989, § 15-327)

Sec. 38-469. Standing or parking on one-way streets.

The city engineer is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.
(Code 1989, § 15-328)

Sec. 38-470. Parking prohibited on narrow streets.

(a) The city engineer is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(b) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.
(Code 1989, § 15-329)

Sec. 38-471. No stopping, standing or parking near hazardous or congested places.

(a) The city engineer is hereby authorized to determine and designate by proper signs places not exceeding 100 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.
(Code 1989, § 15-330)

Sec. 38-472. Parking for certain purposes prohibited.

No person shall park a vehicle upon any roadway for the principal purpose of:

(1) Displaying such vehicle for sale; or

(2) Repairing such vehicle, except repairs necessitated by an emergency.

(Code 1989, § 15-331)

Sec. 38-473. Signs or markings indicating angle parking.

(a) The city engineer shall determine upon what streets angle parking shall be permitted and shall mark or sign such street, but such angle parking shall not be indicated upon any federal-aid or state highway within the city unless the state highways and transportation commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any streetcar tracks.
(Code 1989, § 15-332)

Sec. 38-474. Obedience to angle parking signs or markers.

On those streets which have been signed or marked by the city engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.
(Code 1989, § 15-333)

Sec. 38-475. Where angle parking allowed.

(a) Angle-in parking is allowed in the following location: South Marion Street on the east side of the 300 block.

(b) Any vehicles parked in excess of 15 feet, or any portion of any vehicle extending beyond 15 feet, from the curb are in violation of this section and are subject to citation and/or tow-away at owner's expense.
(Code 1989, § 15-333.1; Ord. No. 11250, § 3, 6-3-1996)

Sec. 38-476. Permits for loading or unloading at an angle to the curb.

(a) The city engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.
(Code 1989, § 15-334)

Sec. 38-477. Designation of curb loading zones.

The city engineer is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.
(Code 1989, § 15-335)

Sec. 38-478. Permits for curb loading zones.

The city engineer shall not designate or sign any curb loading zone upon special request of any person unless such person makes application for permit for such zone and for two signs to indicate the ends of each such zone. The city engineer upon granting a permit and issuing such signs may by general regulations impose condition upon the use of such signs and for reimbursement of the city for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one year.
(Code 1989, § 15-336; Ord. No. 12070, § 1, 8-5-2013)

Sec. 38-479. Standing in freight curb loading zones.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.
(Code 1989, § 15-337)

Sec. 38-480. Designation of public carrier stops and stands.

The city engineer is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as the engineer shall determine to be the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs.
(Code 1989, § 15-338; Ord. No. 11112, § 1, 8-16-1993; Ord. No. 11250, § 5, 6-3-1996)

Sec. 38-481. Stopping, standing and parking of buses and taxicabs regulated.

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.
(Code 1989, § 15-339)

Sec. 38-482. Restricted use of bus and taxicab stands.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.
(Code 1989, § 15-340)

Sec. 38-483. Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether amended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of the lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closer to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.
(Code 1989, § 15-341)

Sec. 38-484. Standing in passenger curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes.
(Code 1989, § 15-342)

Sec. 38-485. Parking during snow emergencies.

(a) Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the city manager or a designated representative may declare a snow emergency. Until such snow emergency is terminated it shall

be unlawful to park a vehicle on any street designated as an emergency snow route. The city manager or representative may put into effect a snow emergency on parts of or all snow emergency routes as necessary by declaring it in a manner prescribed in this section.

(b) Upon declaration of a snow emergency, notice thereof shall be given through the local press, radio, television or other media. The snow emergency shall be terminated by notice given substantially in the same manner as was declared. The termination will be effective immediately.

(c) All vehicles parked on emergency snow routes shall be removed within two hours after start time of a snow emergency. Any vehicle parked on a snow emergency route after such period of time may be removed or caused to be removed by a police officer to a place of safety and the vehicle may not be recovered until the towing and storage charges are paid by the person claiming the vehicle.

(d) Any owner or operator of a vehicle who shall violate the provisions of this section shall, upon conviction thereof, be fined as provided in section 1-8.

(e) The city is not liable for damage due to flying or plowed snow, debris, or salt of vehicles or property left in the snow emergency routes during a declared snow emergency.
(Code 1974, §§ 13-7—13-9; Code 1989, § 15-343)

Sec. 38-486. Temporary parking restrictions.

(a) The police chief or designee may erect or place, or cause to be erected or placed, signs temporarily prohibiting or restricting the stopping, standing and parking of motor vehicles at any location upon and along any public street within the city limits.

(b) The authority to temporarily regulate parking in the manner described in subsection (a) of this section shall be exercised as follows:

(1) For the purpose of temporarily regulating parking during funerals.

(2) For the purpose of temporarily regulating parking during parades.

(3) For the purpose of temporarily regulating parking in connection with any special event which is staged with the approval or permission of the city council.

(4) For the purpose of temporarily regulating parking whenever such stopping, standing and parking of any motor vehicle would result in creating a hazardous or congested area which would be detrimental to the welfare or convenience of the general public.

(c) When such signs are erected as authorized herein, no person shall stop, stand or park a motor vehicle in any such designated location, and any person who violates the provisions contained herein shall be deemed guilty of an ordinance violation.
(Code 1989, § 15-344; Ord. No. 10723, §§ 1—3, 7-21-1986)

Sec. 38-487. Parking prohibited at any time—Generally.

The city engineer is hereby authorized to erect signs indicating no parking upon those streets or portions of streets in the city authorized by the city council, a list of all streets or portions of streets with no parking as approved by the city council is on file in the office of the city clerk. When such signs are erected, no person shall park, or permit to remain parked, any vehicle registered in name or operated and controlled by the person, in violation of such signs.
(Code 1974, § 13-1.3; Code 1989, § 15-345; Ord. No. 10374, § 1, 9-4-1979; Ord. No. 10375, § 1, 9-4-1979; Ord. No. 10376, § 1, 9-4-1979; Ord. No. 10466, 4-21-1981; Ord. No. 10508, § 1, 2-16-1982; Ord. No. 10581, § 1, 8-1-1983; Ord. No. 10689, § 1, 10-21-1985; Ord. No. 10690, § 1, 10-21-1985; Ord. No. 10695, § 1, 11-4-1985; Ord. No. 10757, § 1, 3-16-1987; Ord. No. 10790, 9-21-1987; Ord. No. 10791, 9-21-1987; Ord. No. 10800, 12-21-1987; Ord. No. 10842, 10-17-1988; Ord. No. 10873, §§ 1, 2, 6-19-1989; Ord. No. 10914, § 1, 4-16-1990; Ord. No. 10916, § 1, 4-16-1990; Ord. No. 10921, § 1, 5-21-1990; Ord. No. 10929, § 1, 7-16-1990; Ord. No. 10936, § 1, 8-6-1990; Ord. No. 10939, § 1, 8-6-1990; Ord. No. 10940, § 1, 8-6-1990; Ord. No. 10942, § 1, 8-6-1990; Ord. No. 10945, § 1, 8-20-1990; Ord.

No. 10961, § 1, 11-5-1990; Ord. No. 11000, § 1, 8-19-1991; Ord. No. 11001, § 1, 8-19-1991; Ord. No. 11002, § 1, 8-19-1991; Ord. No. 11007, § 1, 9-16-1991; Ord. No. 11015, §§ 1—4, 1-6-1992; Ord. No. 11018, § 1, 2-17-1992; Ord. No. 11019, § 1, 2-17-1992; Ord. No. 11026, §§ 1—4, 3-2-1992; Ord. No. 11038, §§ 1, 2, 6-15-1992; Ord. No. 11058, § 1, 11-2-1992; Ord. No. 11059, § 1, 11-2-1992; Ord. No. 11111, § 1, 8-16-1993; Ord. No. 11124, § 1, 12-6-1993; Ord. No. 11144, § 1, 4-18-1994; Ord. No. 11183, § 2, 4-17-1995; Ord. No. 11204, §§ 1, 2, 6, 8-21-1995; Ord. No. 11215, § 1, 10-2-1995; Ord. No. 11219, § 1, 11-7-1995; Ord. No. 11220, § 1, 11-20-1995; Ord. No. 11250, § 1, 6-3-1996; Ord. No. 11299, §§ 1, 2, 7-7-1997; Ord. No. 11361, § 1, 12-7-1998; Ord. No. 11425, § 1, 12-20-1999; Ord. No. 11448, § 2, 4-17-2000; Ord. No. 11459, § 2, 7-17-2000; Ord. No. 11514, § 1, 8-20-2001; Ord. No. 11515, § 1, 8-20-2001; Ord. No. 11533, § 1, 11-19-2001; Ord. No. 11567, § 1, 5-6-2002; Ord. No. 11608, § I, 3-3-2003; Ord. No. 11678, § I, 8-23-2004; Ord. No. 11693, § I, 11-22-2004; Ord. No. 11716, § I, 6-27-2005; Ord. No. 11734, § I, 10-24-2005; Ord. No. 11774, § I, 9-20-2006; Ord. No. 11826, § I, 2-5-2008; Ord. No. 11841, § I, 8-4-2008; Ord. No. 11873, § III, 4-20-2009; Ord. No. 11882, §§ 2, 3, 7-20-2009; Ord. No. 12006, § 1, 6-4-2012; Ord. No. 12033, § II, 12-3-2012; Ord. No. 12070, § 2, 8-5-2013; Ord. No. 12196, § II, 2-1-2016; Ord. No. 12202, § 1, 4-4-2016; Ord. No. 12257, § 1, 10-2-2017)

Sec. 38-488. Parking prohibited at any time-Certain specific times.

(a) Except as otherwise provided in this article, it shall be unlawful for any vehicle to be parked in any signed area in the business district that prohibits parking as delineated on posted signs. Any vehicle in violation shall be subject to towing and fine, or a combination of both.

(b) The list of streets and times designated as "No Parking" by the city council and designated as "No Parking," as referred to in subsection (a) of this section, is retained in the office of the city clerk and published on the city's website. Parking shall be prohibited on the following streets two mornings each week between 4:00 a.m. and 6:00 a.m. on alternating sides of the street as provided on posted signs: The south and east sides of streets in the business district will be cleared of parking between 4:00 a.m. and 6:00 a.m. on Mondays. The north and west sides of streets in the business district will be cleared of parking between 4:00 a.m. and 6:00 a.m. on Tuesday mornings.

(c) It shall be unlawful for any vehicle to be parked in a city parking lot in the business district, on selected days, as delineated on posted signs, where parking is prohibited between 4:00 a.m. and 6:00 a.m. Any vehicle in violation shall be subject to towing and fine or a combination of both.

(d) The list of parking lots designated as "No Parking" lots, and as referred to in subsection (c) of this section, is retained in the office of the city clerk and published on the city's website.
(Code 1989, § 15-346; Ord. No. 10747, §§ 1—4, 12-1-1986; Ord. No. 11063, §§ 1, 2, 12-7-1992; Ord. No. 11186, § 1, 5-1-1995; Ord. No. 11334, § 1, 4-6-1998; Ord. No. 11502, § 1, 6-18-2001; Ord. No. 11755, § I, 5-17-2006; Ord. No. 12008, § 1, 6-18-2012)

Sec. 38-489. Parking or standing of camper boat, trailer, etc.

(a) The parking or standing of a camper, boat, trailer, motor home, recreational vehicle, construction vehicle, truck-tractor and/or semitrailer, excluding local commercial motor vehicle, or similar type of vehicle is hereby prohibited on any public street and/or upon the public right-of-way at any time. Any such vehicle found to be standing or parked in violation of this section may be towed away at the owner's expense.

(b) It shall be lawful for the above-described vehicles to park within the right-of-way after securing a temporary permit from the police chief to park such vehicle for a definite length of time on the street and/or right-of-way.
(Code 1989, § 15-347; Ord. No. 11183, § 1, 4-17-1995; Ord. No. 11873, § IV, 4-20-2009)

Sec. 38-490. Parking on unimproved right-of-way—Generally.

Parking on the unimproved (grass/dirt) street right-of-way is prohibited. To utilize the undeveloped public (unimproved) right-of-way for parking, please refer to section 44-100.
(Code 1989, § 15-348; Ord. No. 11183, § 3, 4-17-1995; Ord. No. 12202, § 2, 4-4-2016; Ord. No. 12277, § 3(15-348), 4-16-2018)

Sec. 38-491. Parking on unimproved right-of-way—7:00 a.m. or 8:00 a.m. to 5:00 p.m.

The list of unimproved right-of-way where parking is prohibited as designated by the city council is retained in the office of the city clerk and published on the city's website.
(Code 1989, § 15-349; Ord. No. 10994, § 1, 7-1-1991; Ord. No. 11369, § 2, 2-15-1999; Ord. No. 11520, § 1, 9-6-2001)

Sec. 38-492. Fifteen-minute parking zone—Generally.

The list of unimproved right-of-way where parking is prohibited as designated by the city council is retained in the office of the city clerk and published on the city's website.
(Code 1989, § 15-350; Ord. No. 11549, § 1, 2-18-2002; Ord. No. 11755, § II, 5-17-2006; Ord. No. 11971, § 1, 8-1-2011)

Sec. 38-493. Fifteen-minute parking zone—Monday through Saturday.

Parking is eliminated in the following areas Monday through Saturday:

(1) High: North: East side of the 200 block, from Missouri Street on the north to the east-west alley on the south.

(2) Missouri, East: South side of the 200 block, from High Street on the east to a point 100 feet west of the westernmost boundary of High Street.

(Code 1989, § 15-351; Ord. No. 10985, §§ 1, 2, 5-6-1991; Ord. No. 11369, § 2, 2-15-1999)

Sec. 38-494. Parallel parking.

The following are designated as parallel parking areas only:

(1) Line, East: Both sides of the 700 block.

(2) Marion, South: West side of the 300 block, from Jefferson Street to Pierce Street.

(Code 1989, § 15-353; Ord. No. 10932, § 1, 7-16-1990; Ord. No. 11143, § 1, 4-18-1994; Ord. No. 11369, § 2, 2-15-1999)

Sec. 38-495. Parking prohibition and fine for violations.

Any driver, or in certain circumstances the vehicle owner under section 38-497, who shall violate the provisions of this article for illegal stopping, standing or parking of a motor vehicle shall be deemed guilty of an ordinance violation, and unless otherwise specified elsewhere in this article be punished by a fine in the amount as established from time to time by the city council.
(Code 1989, § 15-354; Ord. No. 11369, § 3, 2-15-1999; Ord. No. 11486, § 1, 2-5-2001; Ord. No. 11506, §§ 1, 2, 7-2-2001; Ord. No. 12127, § 2, 9-15-2014)

Sec. 38-496. Registered owner responsible for violations.

If any vehicle is found in violation of any provision of this article for a parking violation and the driver thereof is not present, in addition to the driver of said motor vehicle who parked the motor vehicle in violation of this article, the owner, who is a person or other legal entity in whose name such vehicle is registered in the records of any city, county or state, shall be responsible for such violation when such vehicle was being used with permission. Proof of the ownership as aforesaid shall be prima facie evidence that such vehicle with absent driver was being operated by or with permission of the owner at the time it was parked in violation of this article.
(Code 1989, § 15-355; Ord. No. 12127, § 4, 9-15-2014)

Sec. 38-497. Uniform traffic ticket to be issued when vehicle illegally parked or stopped.

Whenever any motor vehicle is found parked or stopped in violation of any of the restrictions imposed by this article, the officer finding such vehicle, where the driver who illegally parked the motor vehicle is present, shall issue a uniform traffic ticket to the driver who illegally parked such vehicle. If the driver is not present, the officer shall take its registration information and may take any other information displayed on the vehicle which may identify its driver or owner. The officer shall conspicuously affix to such vehicle a uniform traffic ticket for the driver or owner of the motor vehicle. In either event, the uniform traffic ticket shall command the driver or owner to answer to the charge against the driver or owner by paying the specified parking fine within 14 days during the hours and at the place specified in the traffic ticket or the accompanying information. Failure to pay the specified parking fine within 14 days may lead the prosecuting attorney to initiate formal prosecution for a parking violation in municipal court.
(Code 1989, § 15-356; Ord. No. 12127, § 4, 9-15-2014)

Sec. 38-498. Immobilization of certain vehicles.

The finance director or designee may authorize to be immobilized, by the use of wheel locks, any vehicle for which there are three or more outstanding, unpaid and overdue parking tickets issued by the city which tickets have remained unpaid for a period of 30 days.

(1) Once a vehicle has met the criteria for placement of a wheel lock as prescribed in this section, there shall be affixed to the vehicle a warning notice informing the owner or operator of the vehicle that said vehicle is subject to placement of a wheel lock, if all civil penalties for unpaid and overdue parking tickets are not paid within 24 hours of the warning notice. Actual receipt of the warning notice by the owner or operator of the vehicle is not a prerequisite to the use of the procedures herein provided for.

(2) If a wheel lock is attached to a vehicle, a notice shall be affixed to the windshield or any part of the vehicle so as to be readily visible. The notice shall warn that the vehicle has been immobilized and that any attempt to move the vehicle will result in damage thereto. The city shall not be responsible for any damage to an immobilized vehicle resulting from unauthorized attempts to free or move the vehicle.

(3) An immobilization fee shall be charged for the removal of the wheel lock in the amount provided in the city's fee schedule. The notice shall include the total amount of civil penalties due for the overdue, unpaid parking tickets, and an immobilization fee to be charged. The notice shall also list the address and telephone number of the city offices to be contacted to pay the charges and to have the wheel lock removed.

(4) Upon payment of all civil penalties for unpaid and overdue parking tickets, and all other applicable charges authorized by this section, including immobilization, the vehicle shall be released to the owner or any other person entitled to claim possession of the vehicle.

(5) The registered owner or person entitled to possession of any vehicle which has been immobilized pursuant to this section may submit a written request for a hearing to the city manager or designee by mail within seven days from the receipt of the notice. If a request for a hearing is not made within the allotted time, the right to a hearing shall have been waived. If a hearing is requested, such hearing shall be commenced within seven days of receipt by the city manager or designee of the request for such hearing. Thereafter, an informal hearing will be conducted by

the city manager or designee at a time and place designated by the city manager or designee.

(6) For the purpose of determining whether an illegally parked vehicle has been issued three or more overdue parking tickets which have remained unpaid for a period of 30 days, it shall be sufficient if the license plate number and/or the vehicle identification number (VIN) of the illegally parked vehicle and the license plate and/or VIN of the vehicle appearing on the tickets are the same.

(7) It shall be unlawful for any unauthorized person, firm or corporation to remove from any vehicle a wheel lock placed thereon pursuant to this section without all civil penalties and applicable charges having first been paid. Unauthorized removal, or damage, may subject the violator to additional criminal penalties beyond this section.

(Code 1989, § 15-357; Ord. No. 11835, § VIII, 4-14-2008; Ord. No. 12127, § 3, 9-15-2014; Ord. No. 12196, § III, 2-1-2016)

Secs. 38-499—38-521. Reserved.

ARTICLE VII. TRAFFIC-CONTROL DEVICES

Sec. 38-522. Standards, specifications generally.

All traffic-control signs, signals and devices shall conform to the manual and specifications approved by the state highways and transportation commission or resolution adopted by the city council. All signs or signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of this article shall be official traffic-control devices.
(Code 1989, § 15-361)

Sec. 38-523. Placement, maintenance.

The city engineer shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of the city to make effective the provisions of such ordinances, and may place and maintain such additional traffic-control devices as the engineer may deem necessary to regulate traffic under the traffic ordinances of the city or under state law or to guide or warn traffic.
(Code 1989, § 15-362)

Sec. 38-524. Obedience generally.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this article, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this article.
(Code 1989, § 15-363)

Sec. 38-525. When required for enforcement purposes.

No provision of this article for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.
(Code 1989, § 15-364)

Sec. 38-526. Presumption of legality.

(a) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this article, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(b) Any official traffic-control device placed pursuant to the provisions of this article and purporting to conform to the lawful require-

ments pertaining to such devices shall be presumed to comply with the requirements of this article, unless the contrary shall be established by competent evidence.
(Code 1989, § 15-365)

Sec. 38-527. Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) *Green indication.*

a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to any pedestrian lawfully in the intersection or adjacent crosswalk or any other vehicle in the intersection or approaching the intersection so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection.

b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal as provided in section 38-528, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Steady yellow indication.*

a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in section 38-528, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) *Steady red indication.*

a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until a green indication is shown except as provided in subsection (3)b of this section.

b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highways and transportation commission with reference to an intersection involving a state highway, and local authorities with reference to an intersection involving other

highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, the prohibition shall be effective when a sign is erected at such intersection giving notice thereof.

c. Unless otherwise directed by a pedestrian-control signal as provided in section 38-528, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) *Signal in location other than intersection.* In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(Code 1989, § 15-366; Ord. No. 11332, § 1, 3-16-1998)

Sec. 38-528. Pedestrian-control signals.

Whenever special pedestrian-control signals exhibiting the words "Walk," "Wait" or "Don't Walk" are in place such signals shall indicate as follows:

(1) *Walk.* Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles;

(2) *Wait* or *Don't Walk.* No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

(Code 1989, § 15-367)

Sec. 38-529. Flashing signals.

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(Code 1989, § 15-368)

Sec. 38-530. Lane direction control signals.

When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

(Code 1989, § 15-369)

Sec. 38-531. Display of unauthorized signs, signals or markings.

No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device, sign or signal.

(Code 1989, § 15-370)

Sec. 38-532. Interference with devices signs or signals.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock

down or remove any official traffic-control device, sign or signal or any inscription, shield or insignia thereon, or any other part thereof.
(Code 1989, § 15-371)

Secs. 38-533—38-557. Reserved.

ARTICLE VIII. ACCIDENTS

Sec. 38-558. Immediate notice of accident.

The driver of a vehicle involved in an accident resulting in injury or death of any person or total property damage to an apparent extent of $500.00 or more to one person shall immediately by the quickest means of communication give notice of such accident to the police department if such accident occurs within the city.
(Code 1989, § 15-391)

Sec. 38-559. Written report of accident.

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of $500.00 or more to one person shall, within five days after such accident, forward a written report of such accident to the police department. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while such driver was present thereat.
(Code 1989, § 15-392)

Sec. 38-560. When driver unable to report.

(a) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required in section 38-558 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give, or cause to be given, the notice not given by the driver.

(b) Whenever the driver is physically incapable of making a written report of an accident as required in section 38-559 and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after the accident make such report not made by the driver.
(Code 1989, § 15-393)

Sec. 38-561. Investigation of accidents.

It shall be the duty of police officers of the department, to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.
(Code 1989, § 15-395)

Secs. 38-562—38-585. Reserved.

ARTICLE IX. SCHEDULES

DIVISION 1. GENERALLY

Sec. 38-586. Weight limits.

The following streets shall have the vehicle weight limits as herein prescribed:

Street	*Maximum Tonnage*
Jamison Street and Pfeiffer Avenue. Listed weight limit applies to through traffic only	15
Shepherd Avenue, from the west right-of-way limit of Halliburton Street to the west city limit. Listed weight limit applies to through traffic only.	15

(Code 1989, § 15-430; Ord. No. 11053, § 1, 9-8-1992; Ord. No. 11838, § I, 6-2-2008; Ord. No. 12172, § I, 9-21-2015)

Sec. 38-587. One-way streets and alleys.

In accordance with section 300.245 of the model traffic ordinance and when properly signposted, traffic shall move only in the direction indicated on those streets approved by the city council and on file with the city clerk.
(Code 1974, § 13-1.1; Code 1989, § 15-431; Ord. No. 10789, 9-21-1987; Ord. No. 11250, § 2, 6-3-1996; Ord. No. 12207, § I, 6-20-2016)

Sec. 38-588. Emergency snow routes.

(a) Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the city manager, or designated representative, may declare a snow emergency. Until such traffic emergency is terminated, it shall be unlawful to park a vehicle on any street designated an emergency snow route. The city manager, or representative, may put into effect a snow emergency on parts of or on all snow emergency routes as necessary by declaring it in a manner prescribed in this section.

(b) Upon declaring a snow emergency, notice thereof shall be given through the local press, radio, television, or other media. The snow emergency shall be terminated by notice given substantially in the same manner as was declared. The termination will be effective immediately following notification.

(c) All vehicles parked on emergency snow routes shall be removed within two hours of a snow emergency start time. Any vehicle parked on an emergency snow route after such period of time may be removed or caused to be removed by a police officer to a place of safety, and the vehicle may not be recovered until the towing and storage charges are paid by the person claiming the vehicle.

(d) The list of streets established as emergency snow routes within the city by the city council is retained in the office of the city clerk. In addition, the list identifies which of the emergency snow routes will also have the snow completely removed and hauled away.

(Code 1989, § 15-432; Ord. No. 10949, § 5, 9-24-1990)

Sec. 38-589. Through streets.

In accordance with the provisions of section 300.255 of the model traffic ordinance and when signs are erected giving notice thereof, drivers of vehicles shall stop at every intersection before entering any of the following streets or parts of streets:

(1) Cottage Grove, at its intersection with Harrison Street Green, North; U.S. Highway 63 to Elm Harrison; Baltimore to Marion.

(2) Illinois; Baltimore to Marion Jefferson, East and West Marion; Elm to Normal.

(3) U.S. Business Route Highway 63 (Baltimore).

(Code 1974, § 13-1.2; Code 1989, § 15-433; Ord. No. 10952, § 2, 9-24-1990; Ord. No. 11039, § 2, 6-15-1992)

Sec. 38-590. Stop signs.

In accordance with section 300.265 of the model traffic ordinance, the city council has determined that hazards exists and that stop signs should be placed on certain streets with the list of said streets and applicable intersections on file with the city clerk.

(Code 1989, § 15-434; Ord. No. 10739, § 1, 10-13-1986; Ord. No. 10915, §§ 1—3, 4-16-1990; Ord. No. 10951, § 2, 9-24-1990; Ord. No. 11039, § 1, 6-15-1992; Ord. No. 11071, § 1, 2-15-1993; Ord. No. 11075, § 1, 3-15-1993; Ord. No. 11119, § 1, 11-1-1993; Ord. No. 11362, § 1, 12-7-1998; Ord. No. 11513, § 1, 8-20-2001)

Secs. 38-591—38-613. Reserved.

DIVISION 2. SPEED LIMITS

Sec. 38-614. Districts defined.

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

Business district means that portion of the city within the following bounds: Beginning on the south line of Jefferson Street at its point of intersection with the east line of the right-of-way of the Wabash R.R. Company; thence east along the south line of Jefferson Street to the intersection of the west line of High Street; thence north along the west line of High Street to the intersection with the south line of right-of-way of the Q.O. & K.C. Railroad; thence west along the south line of such railroad right-of-way to the east line of the Wabash Railroad right-of-way; thence south along the east line of such railroad right-of-way to the point of beginning on Jefferson Street.

Park district means that portion of the city extending in each and every direction for a distance of one block, including the streets adjacent to the block on which is located a public park.

School, unless otherwise specified, means a physical educational institution, kindergarten through grade 12, recognized as such by the state.

School district means that portion of the city extending in each and every direction for a distance of one block, including the streets adjacent to the block on which stands any school building within the corporate limits of the city. The term "school district" also applies in like manner to the streets and buildings of Truman State University in the city.
(Code 1974, § 13-2; Code 1989, § 15-446; Ord. No. 11821, § I, 12-18-2007; Ord. No. 12034, § I, 12-3-2012)

Sec. 38-615. District limits.

(a) The maximum speed limit of any vehicles in the following districts shall be as indicated:

(1) In a business district, school district, special district or hospital zone, 20 miles per hour.

(2) The city council can deviate from these speed limits where traffic patterns/loads warrant. Such deviations, established by council, will be listed in the municipal code and posted accordingly; in which case the posted speed limit shall control.

(b) All other districts, 30 miles per hour, unless otherwise posted based on those streets approved by the city council, said list on file with the city clerk.
(Code 1974, § 13-3; Code 1989, § 15-447; Ord. No. 10580, § 1, 8-1-1983; Ord. No. 12034, § II, 12-3-2012)

Chapter 39

RESERVED

Chapter 40

UTILITIES

Article I. In General

Secs. 40-1—40-68. Reserved.

Article II. Water

Division 1. Generally

Division 2. System Components

Division 3. Meters

Division 4. Customer Operations

Article V. Gas

ARTICLE I. IN GENERAL

Secs. 40-1—40-68. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 40-69. Definitions.

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

Agent includes and refers to a person or entity authorized to act for and under the direction of another person or entity when dealing with third parties, such as a realtor or property manager.

Alley means a public right-of-way which affords only a secondary means of access from such right-of-way to abutting property and is not intended for general traffic circulation.

AWWA means the American Water Works Association.

Applicable charges means any fees assessed to cover delivery of door hangers or other notification to the customer for prevention of service disconnection or for service reestablishment.

Basement means a story below the first story of a building.

Building means a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels.

Clean-up fee means the charge assessed to each residential customer service account to defray the cost of the citywide annual bulk refuse collection.

Code enforcement director means the director of the city's codes department or designee.

Common area means an area readily accessible to city public works personnel during normal working hours, Monday through Friday, 7:00 a.m. to 4:00 p.m.

Contamination means an impairment of the quality of the water by sewage, process fluids, or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.

Corporation cock means a valve that secures that portion of the street service pipe attached to a main.

Customer includes and refers to any living person, firm, agency, partnership or corporation who is a property owner or resident or tenant at the service address under contract with the city to supply water to the customer's premises from the city's public water supply system, and the agents or employees of a customer acting on the customer's behalf.

Customer service pipe means that pipe running from the point of delivery into the premises of the customer. The term "customer" may also mean a pipe connected to a fire service pipe and designed to provide potable water to the customer for purposes other than fire protection.

Department of natural resources means the department of natural resources of the state and its successors with the responsibility for enforcing laws, rules and regulations regarding water quality and water supply systems.

Disconnection or termination of service means the unavailability of potable water to a customer at a given service address. The usage of this term means the physical stoppage of water flow at the stop box or at the meter, or through the termination of service by the read out of a meter due to the inability to physically stop water flow.

Door hanger means a written notification to a customer of delinquency of account or of impending turn off or other information that needs to be communicated to the customer. The door hanger is left at an outside opening of the customer's premises.

Dwelling means a building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, boardinghouses and lodginghouses, apartment houses and apartment hotels, but not hotels.

Dwelling, double-family, means a building intended or designed for the occupancy of two households.

Dwelling, multiple-family, means a building intended or designed for occupancy of more than two households.

Dwelling, single-family, means a building intended or designed for the occupancy of one household.

Easement means a grant to the public by a property owner for the use of land for specific purposes.

Finance director means the director of the city's finance department or designee.

Fire service pipe means a pipe, with appurtenances, used to carry water from the point of delivery into the customer's premises where such water is used primarily for the customer's fire protection or fire suppression systems.

Individual water supply system means any water supply system, other than a public water supply system, which supplies water to a single building or tract.

Industrial customer means any customer engaged in the manufacture, processing, assembly or fabrication of any item, product or good, and whose premises are located wholly within the city limits within an M-1 or M-2 zoning district as defined by this Code.

Industrial process system means any system containing a fluid or solution, which may also be chemically, biologically, or otherwise contaminated or polluted in a form or concentration as would constitute a health, system, pollution, or plumbing hazard if introduced into a potable water supply.

Initial service connection charge means the sum that is charged an applicant for the right to install a new street service pipe or replace an existing street service pipe to a city public main.

ISO means the insurance service office of the state.

Individual water supply system means any water supply system, other than a public water supply system, which supplies water to a single building or tract.

Isolation means protection of a customer service pipe or a private fire service pipe by installing a cross-connection protection device or air-gap separation on a customer's individual fixtures, appurtenances, or systems.

Landlocked means a tract which is not abutted either by a public highway, street, alley or utility easement.

Landlord responsibility contract means an agreement signed by the landlord of residential units and kept on file by the finance department in which the landlord accepts utility service billing responsibility at any time for which there is no tenant signed up for service.

Main means a pipe used to transmit potable water to one or more customers or tracts by means of a street service pipe.

Meter means a mechanical device to measure and record the quantity of water supplied to the customer.

Mobile home means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways; and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation.

Mobile home park means a tract upon which two or more mobile homes or lots for mobile homes are located.

Notice to finance director means written notice addressed as follows: Finance Director, City Finance Department, City Hall, 201 S. Franklin, Kirksville, Missouri 63501; and deposited in the United States mail, postage prepaid.

Operation and maintenance means all expenditures during the useful life of the system for materials, labor, utilities and other items which are necessary for managing and maintain-

ing the system to achieve the capacity and performance for which the system was designed and constructed.

Plumber means a plumbing contractor licensed to conduct business within the city.

Plumbing means all the piping, appurtenances and devices directly or indirectly attached to a customer service pipe beyond the point of delivery.

Point of delivery means the customer's side of the stop box located at the end of the street service pipe.

Pollution means the presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonable affect the water for domestic use.

Potable water means water which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the department of natural resources.

Premises means a building or part of a building with its grounds or other appurtenances that is associated with a service address.

Private water supply system means a water supply system consisting of water mains, water distribution pipes, and necessary connecting pipes and appurtenances which supplies potable water to more than one building, structure or tract of land not under common ownership, which is not owned and controlled by the city or any public water supply district organized and operating under the laws of the state.

Public water supply district means the water mains, water distribution pipes and necessary connecting pipes and appurtenances which supply potable water to customers, which is organized and operating under the laws of the state.

Public water supply system means the water mains, water distribution pipes and necessary connecting pipes and appurtenances which supply potable water to customers and is owned and controlled by the city, or any public water supply district organized and operating under the laws of the state.

Public works director means the director of the city's public works department or designee.

Readily accessible means unrestricted, barrier-free and unlocked, accessible without the use of tools, keys and ladders.

Reconnection charge means the sum charged to a customer for the reconnection of service to a customer's premises where service has been disconnected due to nonpayment of bills or by customer request.

Replacement means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the system to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Right-of-way means the entire dedicated tract or strip of land that is to be used by the public for circulation or service.

Security deposit or *deposit* means a payment required by a customer prior to establishment of service which may be used to offset a balance owed on the customer account.

Service means the provision of water from the city's public water supply system to the customer at the point of delivery under the terms and conditions of this article.

Service address means the physical address where service is provided by contract with a customer.

Service availability fee means the fee assessed to each customer that enables potable water to be supplied to each service address.

Service connection or *connection* means the physical connection to the city's public water supply that allows water to be supplied to the customer.

Service continuation means the ability for agents to keep services active through participation in the service continuation program.

Stormwater means any surface flow, runoff or drainage resulting from any form of precipitation event, including snowmelt, and consisting entirely of water from any form of natural precipitation.

Stormwater development charge means the fee based on the square foot of covered ground for new construction or additions to existing structures that is charged at the time of the building permit.

Stormwater utility charge means a fee charged on every water meter located within the city limits that is connected to the city water system, used to pay for debt service requirements for the stormwater system and/or for stormwater drainage improvements and maintenance.

Street means a public thoroughfare which affords the principal means of access to abutting property. A street may also be designated as an avenue, boulevard, highway, parkway, road, thoroughfare, court, or other appropriate name.

Street service pipe means a pipe with appurtenances used to carry water from the main to the point of delivery into the customer service pipe.

Suburban customer means any customer whose service address is located outside the corporate limits of the city.

Temporary service means a contract to provide service to a customer for temporary purposes for a period not to exceed 12 months.

Tract means a single unit of land under the control of a customer.

Trash service means the residential collection of refuse within the city limits as provided by contract between refuse collection service and the city and further governed by chapter 30.

Useful life means the estimated period during which the treatment works will be operated.

User charge means a fee which is levied to customers in a proportional and adequate manner for the cost of operation, maintenance and replacement of the city's system.

Volume charge means a variable charge based on the number of cubic feet of water used during a billing period.

Water system means any devices and systems for the storage, treatment, recycling, transmission and distribution of water. These include transmission and distribution lines, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable water supply such as standby treatment units and any works, including site acquisition of land that will be part of the treatment process.

Watering meter means a device that provides service to customers only for watering of lawns or filling of pools and requires establishment of a separate service account.
(Code 1989, § 25-1; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11378, § 1, 3-15-1999; Ord. No. 11642, §§ 1, 2, 11-17-2003; Ord. No. 11685, § 1, 9-27-2004; Ord. No. 11717, § 1, 6-27-2005; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-70. Interpretation of article.

(a) In interpreting and applying the provisions of this article, they shall be held to the highest level for the protection of the public health and welfare. Whenever the provisions of any other state statute, county or city ordinance or regulation requires a higher or more strict standard than required by this article, then the other provisions shall apply.

(b) The usage of the term "shall" means the provision in the article is mandatory, while the usage of the term "may" means the provision is permissive.
(Code 1989, § 25-2; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11685, § 2, 9-27-2004)

Sec. 40-71. New service connections; fees.

Customers seeking the installation of a new water service connection are required to do the following:

(1) Obtain all required building permits and other permits required by this Code.

(2) Pay for the costs of a water meter and all metering appurtenances.

(3) Pay a service connection tap fee as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website, per meter, unless covered by section 40-106.

(Code 1989, § 25-20; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 12205, § 1, 4-18-2016; Ord. No. 12227, § 1, 1-9-2017)

Sec. 40-72. Single-family dwellings.

A separate street service pipe, separate meter and separate stop box shall be required for each single-family dwelling. The service pipe and meter will be located within the same lot as the single-family dwelling. Placing service lines on/across other lots is not permitted. If the lot that holds the meter and service line is split, the line and meter shall be relocated if it is located outside of the lot that holds the dwelling.

(Code 1989, § 25-21; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-73. Other structures.

A separate street service pipe, separate meter and separate stop box shall be required for each unit of a multifamily structure or for each unit of a commercial structure with more than one tenant. When the structure is under one ownership and the owner is responsible for payment of the water bill, then the structure may also be served by a single street service pipe, meter and stop box.

(Code 1989, § 25-22; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-74. Multiple commercial buildings on a single tract.

A group of buildings used for commercial purposes and occupied by one customer may also be served by a single street service pipe, water meter and stop box for the entire group of buildings. If the group of buildings is served by a single meter, then an additional stop box shall be installed for each individual building at least ten feet from the building on the customer service pipe serving each building. If the group of buildings is served by more than one street service pipe, then a separate meter and stop box shall be required for each street service pipe.

(Code 1989, § 25-23; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-75. Mobile home park basic requirements.

(a) *Mobile home parks served by a public main.* A separate street service pipe, separate meter, and separate stop box shall be required for each mobile home within the mobile home park when the occupant of each unit is responsible for the payment of the water bill. If the owner of the mobile home park is responsible for the payment of the water bill, then the mobile home park shall be served by a single street service pipe, meter, and stop box.

(b) *Mobile home parks served by a private main with individually metered units as of effective date of article.* If the owner or occupant of each unit is responsible for payment of the water bill, then:

(1) A separate street service pipe, meter, and stop box or locking device shall be permitted for each unit which is individually metered as of the effective date of the ordinance from which this article is derived, or for each unit shown on the plat which has been approved by the code enforcement director prior to the date of this article.

(2) All other units shall be serviced by a single street service pipe, meter, and stop box, and the owner or manager of the mobile home park shall be responsible for the payment of the water bill.

(c) *Mobile home parks served by a private main with a single meter as of the effective date of article.* This type of mobile home park shall be served by a single street service pipe, meter, and stop box, and the owner or manager shall be responsible for the payment of the water bill.

(Code 1989, § 25-24; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-76. Exceptions.

The code enforcement director may vary the requirements for multiple street service pipes where both of the following conditions exist:

(1) The street service pipe is of sufficient size and material to accommodate the customer's water requirements.

(2) Multiple street service pipes are not feasible because of the condition of the main. Large numbers of existing street service pipes, or other mechanical or physical obstacles, prohibit the installation of additional street service pipes.

(Code 1989, § 25-25; Ord. No. 10911, § 2, 4-2-1990)

Secs. 40-77—40-95. Reserved.

DIVISION 2. SYSTEM COMPONENTS

Sec. 40-96. General.

All water piping, equipment, and other appurtenances, either within or without the city limits, located upon private property or on public property must conform to all applicable city codes, ordinances, rules and regulations, as well as any applicable state and federal regulations. The city shall not have any duty or responsibility to repair or maintain any water piping, equipment or other appurtenances located on the customer's side of the point of delivery (stop box).

(Code 1989, § 25-30; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-97. Water main extension within the city limits.

(a) If a main is located within the street or right-of-way adjacent to a tract of land and the tract's owner desires to obtain water service from the main, the owner may be allowed to obtain service if:

(1) The intended use of the tract is in compliance with the requirements of the city building, subdivision and zoning ordinances as determined by the city; and

(2) The water main is of sufficient size, as determined by the city engineer and public works director, to provide an adequate supply of water and adequate fire protection for the land uses allowed under this Code. If approved by the code enforcement director, a customer service pipe shall be extended from the tract to the street service pipe. The street service pipe shall be installed using the shortest distance between the main and the edge of the right-of-way or easement containing the main. A meter shall be installed, in accordance with the provisions of section 40-131, immediately after the stop box at the end of the street service pipe. The tract owner shall pay for the cost of any fire hydrants and appurtenances as required by the code enforcement director.

(b) If there is not a main within the street or right-of-way adjacent to a tract of land and the tract's owner desires to obtain water service from the main for the tract, then the nearest main of sufficient size shall be extended along a highway, street, alley or utility easement, as determined by the city engineer and public works director, to the center of the property line. The tract owner shall contract for and pay the cost of the extension of the main, any fire hydrants and appurtenances as required by the code enforcement director and shall obtain any easements or rights-of-way needed to extend the main. The new main and appurtenances thereto shall be dedicated to the city after inspection and approval of the installation by the city engineer.

(c) If a tract is landlocked, then the nearest main shall be extended to a point 250 feet from the nearest property line of the tract to the main as extended. The main shall be extended along a highway, street, alley or easement, as determined by the code enforcement director. If the nearest main is under 250 feet from the nearest property line of the tract to the main, then the main shall not be extended. In either instance, if approved by the code enforcement director, a customer service pipe shall be extended from the tract to the street service pipe. The street service pipe shall be installed using the shortest distance

between the main and the edge of the right-of-way or easement containing the main. A meter shall be installed, in accordance with the provisions of section 40-131, immediately after the stop box at the end of the street service pipe. The tract owner shall pay for the cost of the extension of the main, any fire hydrants and appurtenances as required by the code enforcement director and shall obtain and pay for any easements or rights-of-way needed to extend the main.

(d) Any person subdividing a tract of land shall provide a complete water supply system within the tract to be subdivided. The proper size, location and number of mains, hydrants and appurtenances for a subdivision shall be determined by the city engineer after consulting with the code enforcement director and fire chief. All mains shall be located within public rights-of-way or within easements dedicated to and accepted by the city. All easements for water mains shall be no less than 20 feet in width. The person subdividing the tract shall:

(1) Have plans and specifications for the system prepared by an engineer licensed by the state.

(2) Submit the plans and specifications for the system to the city engineer and the state department of natural resources for approval prior to the start of construction.

(3) Upon completion of construction, obtain the approval of the installation by the department of natural resources.

(4) After approval by the department of natural resources, dedicate the system and all appurtenances and easements to the city. The city council shall accept the dedication prior to placing the system in service.

(e) In the event the city desires to increase the size of a main being installed by a tract owner or a person subdividing a tract to a size greater than that required for use by the tract owner or the person subdividing a tract, then the city shall pay the difference between the cost of the main required for the tract or subdivision and the cost of the larger main desired by the city.

(f) All work must be inspected by the city engineer prior to covering with dirt.
(Code 1989, § 25-31; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-98. Water main general specifications.

The city engineer shall determine the size of all mains, but in no instance shall a main be less than six inches in diameter. Mains shall be installed with a minimum cover of 48 inches. The maximum trench width shall be the nominal inside pipe diameter plus 24 inches. Minimum trench widths shall be wide enough as to give a minimum of six inches clearance between the trench walls and the exterior of the pipe. All water mains will be marked underground with marker tape/wire tracer capable of being located by a metal detector. Water mains shall be pressure tested and disinfected prior to being placed in service. The pressure test shall be performed in accordance with city requirements. The disinfection shall be done according to AWWA C600. If any subdivision regulation relating to the installation of water mains would otherwise apply, then the subdivision regulation shall prevail if they exceed any of the provisions contained herein.
(Code 1989, § 25-31.1; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11642, § 3, 11-17-2003)

Sec. 40-99. Water main pipe specifications.

(a) Pipe for water mains shall be polyvinyl chloride pipe. All plastic pipe must be accompanied by a metal locate tracer approved by the city engineer.

(b) Polyvinyl chloride pipe (plastic pipe) used in water mains shall meet the requirements of AWWA C900 for pipe diameters four inches to 12 inches and AWWA C905 for pipe diameters 14 inches to 36 inches. The pipe shall have a pressure class of 150 psi and a DR of 18 unless otherwise specified by the city engineer. The outside diameter shall be equivalent to cast iron pipe. The pipe shall have elastomeric gasket bell

ends. A certification from the manufacturer stating that the pipe meets the above requirements shall be required. A copy of the manufacturer's test results may also be requested. The pipe shall be accompanied by a metal tracer approved by the city engineer. The laying trench condition used shall be Type 4 or Type 5 of Figure 51.3, Standard Laying Conditions, AWWA C151. If polyvinyl chloride pipe standards or specifications change in the future, the public works director has the authority to approve the alternate type pipe.

(c) All fittings for water mains shall be ductile iron or cast iron and shall meet the requirements of AWWA C110. The fittings shall have a cement-mortar lining and have mechanical joints. They shall have a minimum pressure rating of 250 psi.

(d) Valves used in the installation of a water main shall be located as specified by the city engineer. They shall be gate valves and meet the requirements of AWWA C500 and AWWA C509. Valves meeting the requirements of AWWA C509 shall be iron-body, resilient seated, nonrising stem valves. All valves shall have ends of standard mechanical joints and shall be mounted in a vertical position. They shall be provided with double "O" rings for sealing of the valve stem. They shall be equipped with two-inch square operating nuts and close on clockwise rotations. All valve parts and pieces will be assembled, equipped, and constructed with stainless steel nuts and bolts. Valve boxes shall be cast iron, two-piece, screw-type with 5¼-inch shaft for roadway service. The cover shall have the word "WATER" cast on its top. A certification from the manufacturer stating that all fittings and valves used in the installation meet these requirements shall be required. All valves shall be designed for operation and a working pressure of not less than 200 psi.
(Code 1989, § 25-31.2; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-100. Fire hydrant specifications.

(a) Fire hydrants shall be located as designated by the city engineer after consultation with the fire chief. All fire hydrants installed within the city shall be purchased from the public works director who shall require payment equal to the cost to the city to purchase the hydrant.

(b) Fire hydrants shall meet the requirements of AWWA C502. They shall be six-inch diameter hydrants with 5¼-inch main valve openings, unless otherwise specified by the city engineer. They shall be equipped with dual 2½-inch hose nozzles and one size 4½-inch pumper nozzle. They shall have a mechanical joint connection. They shall be of such length so that nozzles are at least 14 inches above ground and shall have replaceable breakable sections. They shall have a minimum burial depth of 48 inches. Hydrant drainage shall be provided by placing around the hydrant, and below the top of the hydrant supply pipe, not less than seven cubic feet of a mixture of two parts gravel retained on a three-fourths-inch screen to one part coarse sand.

(c) All fittings, valves and fire hydrants shall be restrained using thrust blocks which meet city standards or restrained by other methods, such as retainer glands, or swivel fittings, which are acceptable to the city engineer. Only manufactured products will be acceptable as substitutes for the thrust blocks.
(Code 1989, § 25-32; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-101. Street service pipes.

(a) The city shall maintain the street service pipe up to, and including, the first stop box.

(b) The location of the street service pipe shall be along that portion of the customer's property abutting the highway, street, alley or utility easement in which the main lies, or as determined by the code enforcement director.

(c) The size of the street service pipe shall be determined by the code enforcement director on the basis of information given on the building or remodeling permit of the customer. No street service pipe smaller than three-fourths inch inside diameter shall be installed. The pipe from the main to the first stop box shall be type K copper from three-fourths-inch to two inches in diameter. Any pipe used that is greater than two

inches in diameter, not made of metal materials, must be accompanied by a metal tracer approved by the city engineer. All street service pipes shall be installed with a minimum cover of 48 inches.

(d) The customer may contract with a plumber to install the street service pipe in accordance with the relevant code. The customer or an agent is responsible for notification to the code enforcement director for required inspections. The public works department may install the street service pipe if installation is in the best interest of the city. If installed by the public works department, charges will be made for actual time, materials, and equipment used to complete the installation. If the public works department installs the street service pipe, the customer is responsible for notifying the code enforcement director for required inspections.

(e) No corporation cock shall be installed in any main to serve a premises where a corporation cock has been previously installed or water conveyed, for any reason, without a permit. The corporation cock shall not be installed until the street service pipe previously installed is withdrawn by shutting off the corporation valve and removing a minimum of 12 inches of the pipe starting at the corporation cock, all at the expense of the property owner. When water service is discontinued by removal or demolition of a building or other change in land use not requiring water service, the owners or agent shall have the street service pipe withdrawn by shutting off the corporation valve and removing a minimum of 12 inches of the street service pipe starting at the corporation cock, all at the expense of the property owner. Where demolition occurs or in cases where new development is pending, the code enforcement director may vary the requirement to withdraw the street service pipe after determining the following:

(1) That the street service pipe, including all appurtenances, and the customer service pipe are of sufficient size, quality and condition to adequately service the new development; or

(2) The withdrawal of the street service pipe would create excessive damage to city property.

(Code 1989, § 25-33; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11642, § 4, 11-17-2003)

Sec. 40-102. Stop boxes.

(a) Except as hereinafter provided, stop boxes shall be required as set forth in sections 40-72 through 40-75 and shall be located at the customer's property line. All stop boxes must be visible above final grade before a certificate of occupancy will be granted. Stop boxes must conform to final grade, as nearly as practical. Where a customer service pipe crosses more than one property line, a stop box shall be required at the first property line between the main and customer service pipe and an additional stop box shall be installed at the customer's property line. The city will maintain the street service pipe up to and including the first stop box. Any secondary stop boxes shall be installed as required elsewhere in this article.

(b) In the case of mobile home parks with individually metered units, when permitted, each stop box shall be located at the individual mobile home lot line.

(c) Where no stop box exists, the city can install a stop box at the point of delivery or right-of-way line.

(d) It is the customer's responsibility to provide the stop box location to the code enforcement director.

(e) No fencing or permanent structure is allowed within three feet of a stop box.

(Code 1989, § 25-34; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11848, § 1, 11-17-2008)

Sec. 40-103. Customer service pipe.

(a) A customer service pipe shall be installed by the customer at the customer's expense and shall conform to the provisions of this Code. No customer service pipe shall be smaller than three-fourths of an inch inner diameter and any pipe used greater than two inches in diameter, not made of metal materials, must be accompanied by a metal tracer approved by the city engineer.

(b) Customer service pipes shall be installed with a minimum cover of at least 48 inches. Whenever a leak occurs between the point of delivery and the customer's water meter, the customer must repair the leak within 72 hours

after written or verbal notice to the customer that a leak exists. If the leak is not repaired at the expiration of 72 hours after notification to the customer, or the leak is excessive, service will be discontinued. The city reserves the right to discontinue service immediately if the leak is causing an excessive amount of water loss, or is a threat to the public's health, safety or welfare. (Code 1989, § 25-35; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11642, § 5, 11-17-2003)

Sec. 40-104. Fire service pipe.

(a) The code enforcement director shall approve the installation of all fire service pipes. Before the code enforcement director may approve installation of a fire service pipe, the city engineer shall review the design calculations of the customer's architect or engineer to determine the impact on the public water supply system. The code enforcement director shall have the right to deny a request for a fire service pipe connection if the city engineer's review concludes that the connection would adversely affect existing fire protection or the operation of the public water supply system. The entire cost and expense of installing and maintaining a fire service pipe shall be borne by the customer. A stop box shall be required for the fire service pipe at the property line and an additional stop box shall be located outside of each building serviced by the fire service pipe within ten feet of the point that the pipe enters the building.

(b) The city may install, at its expense, a meter on a street service pipe at the point of delivery to a customer's fire service pipe, or if theft of water occurs, at the expense of the customer.

(c) Customer service pipe for water service, other than water used for fire service, may also be attached to the fire service pipe under the following conditions:

(1) The fire service pipes and appurtenances must comply with all standards and specifications for transmission of potable water.

(2) Each customer service pipe shall have a separate meter and the meter shall comply with all applicable provisions of section 40-130.

(3) There shall be a separate stop box located outside of each building served by the customer service pipe within ten feet of the point at which the pipe enters the building.

(d) The city engineer shall have the right to deny a request for a fire service connection if the connection would adversely affect existing fire protection or the operation of the public water supply system.

(e) Whenever a leak occurs in a fire service pipe, the customer must repair the leak within 72 hours after written or verbal notice to the customer that a leak exists. If the leak is not repaired at the expiration of 72 hours after notification to the customer, service may be discontinued. The city reserves the right to discontinue service immediately if the leak is causing an excessive amount of water loss, or is a threat to the public's health, safety or welfare. (Code 1989, § 25-36; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11642, § 6, 11-17-2003)

Sec. 40-105. Temporary connections.

(a) At the time of issuance of a building permit for a structure a fee for construction water use shall be assessed as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website. Temporary service shall be provided from the date the permit is issued for a period of nine months. If the structure does not have active service or been issued a certificate of occupancy at the end of nine months from the building permit issuance date, an extension for temporary service must be requested. Extensions may be granted in six-month increments for an additional fee. As part of the issuance process, the contractor/property owner will execute a utility user agreement guaranteeing payment of all utilities for any consumption after final meter inspection and until such time as a service contract is executed for the premises.

(b) The city does not offer a residential or commercial swimming pool filling service.

(c) The city reserves the right to use discretion in allowing the city's fire hydrant meters to be used for city projects, major construction projects, and special events as deemed proper by the city. A hydrant meter will not be allowed for residential use.

(1) Any project/event authorized to use a hydrant meter will need to enter into a contract for service upon forms provided by the finance director. Usage of the hydrant meter will be considered temporary and users must indicate the length of the proposed usage for the service. A security deposit is required to be paid for all hydrant meter connections and will be applied to the final utility bill upon disconnection.

(2) The customer shall be liable for all charges for water service provided by the hydrant meter until the customer provides notice to the finance director that the customer wishes to terminate service, or until otherwise terminated by the city. At no time shall the hydrant meter leave the city limits.

(3) Billing for water usage will be in accordance with section 40-154. Failure to pay the bill shall result in removal of the hydrant meter. The customer receiving water service and the owner of the property shall be jointly and severally liable for the payment of the water utility charges rendered to the property as a result of the use of a hydrant meter and must be satisfied before utility service is received.

(4) The meter will be provided in an operable condition, and should be returned in the same condition. If not, it will be the responsibility of the customer to reimburse the city for repairs to, or replacement of, the hydrant meter. The city reserves the right to withhold utility service until this reimbursement is received.

(d) Water service connection will be determined under the same rules as section 40-107.

(e) Meter specification and location will be determined under the same rules as sections 40-130 through 40-133.

(Code 1989, § 25-37; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11378, § 2, 3-15-1999; Ord. No. 11642, § 7, 11-17-2003; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 12179, § 1, 11-16-2015; Ord. No. 12227, § 2, 1-9-2017)

Sec. 40-106. Extraterritorial connections to city water mains.

(a) The basic premises regarding growth outside the city limits as it relates to water service are identified as follows:

(1) There should be no subsidy by the city for rural developments.

(2) The city should encourage development to occur inside the city limits.

(3) Rural developments should bear 100 percent of their actual costs.

(4) The capacity of the water system and water supply is not limitless.

(5) The appearance of development outside the city does reflect on the city. Uncontrolled development nearby the city is not always to the city's benefit.

(6) The city should always seek voluntary annexation before considering connection to the water system.

(7) Water and sewer rates within the city should not be increased to handle a rural development project.

(8) Any and all connections managed or controlled by the city shall be in accordance with and comply with this Code.

(9) All inquiries for rural water supply and distribution should first be made to the county public water supply district.

(b) As of the effective date of the ordinance from which this section is derived, the provisions of this section shall apply in the following instances:

(1) When any person or developer seeks to connect a customer service pipe to an existing city water main located outside the city limits.

(2) When any person or developer seeks to connect a customer service pipe which extends outside the city limits to a main located within the city limits.

(3) The plumbing for any building or tract located outside the city limits shall not be connected to a private water supply system where such private water supply system is a customer of the city's public water supply system. However, those connections may be permitted, if capacity exist, in the case of existing private water supply systems which are a customer of the city's public water supply system as of the effective date of the ordinance from which this section is derived, and if the private water supply system's customer service pipe is metered at the point of delivery from the city's public water supply system and only one bill is rendered in connection therewith and is payable by the owner of the private water supply system.

(4) Multiple residential dwellings, with separate owners, being supplied by a single meter is not permitted.

(c) The following procedures shall be followed prior to the issuance of a permit to make the proposed connection:

(1) The applicant shall submit a written report on the use and occupancy of land within the proposed development.

(2) The applicant shall submit building plans for the proposed development which shall show compliance with the city codes, ordinances and regulations which would apply in the event the development was within the city limits. The applicant shall also demonstrate written compliance with federal and state laws or regulations that affect the proposed development.

(3) The applicant shall submit a site plan which shall include, but not be limited to, the following information:

a. Types of land uses for adjacent properties within 500 feet of the applicant's property lines, including building locations and pertinent development data.

b. Owner's name and address.

c. Legal description of property.

d. Costs of construction for development.

e. Location of proposed connection to city water main.

f. Proposed water meter location.

(4) The applicant shall have a water flow network analysis performed by an engineering firm that verifies the proposed connection will not negatively impact the existing water system and its customers. The final determination will be made by the city engineer of the applicant's impact on the water system.

(5) The applicant shall prepare the necessary deeds of dedication to the city for any rights-of-way, easements or water system components as determined by the city engineer.

(d) The applicant shall pay the required initial service connection as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website, in addition to an amount equivalent to 50 percent of the established building permit fee of the city and shall be paid by the applicant prior to making any service connections. Proper inspections must be made by the code enforcement director prior to making any service connections.

(e) Failure of an applicant for an extraterritorial connection to the water system to comply with the requirements above shall be grounds for the city to terminate the applicant's water service.

(f) As of the effective date of the ordinance from which this section is derived, no customer of the city shall allow another person or developer to connect to their customer service pipe or internal plumbing to avoid the requirements of this section. Any customer which allows the illegal connection to occur shall have their water service disconnected until such time as all above-described requirements have been complied with. The customer shall also pay any reconnection charges or expenses incurred by the city to disconnect service.

(g) No person or developer shall be allowed to extend a city main outside the city limits.
(Code 1989, § 25-38; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 12227, § 3, 1-9-2017)

Sec. 40-107. Private water supply connections.

(a) All plumbing for any building or tract shall be connected to a public water supply system if available, it being the express intention of this section to prohibit connection of the same to a private water supply system except as hereinafter provided. A public water supply system shall be considered available to a building or tract when the building or tract is located within 250 feet of a public water main, as measured along the shortest distance between the main and the nearest property line of the tract or the property line of the building's premises, and if the main is of sufficient size so as to provide an adequate supply of water as determined by the code enforcement director. When a public water supply system is not available, plumbing shall be connected to an individual water supply.

(b) The owner of any building or tract whose plumbing is connected to a private water supply system as of the effective date of the ordinance from which this article is derived, and the connection is thereafter temporarily discontinued for a period of one year or less as a result of casualty or fire loss or for purposes of rebuilding the same, shall be permitted to reconnect the plumbing to the same private water supply system so long as the water demand flows remain less than or equal to the water demand flows which existed prior to the temporary discontinuance of the connection.
(Code 1989, § 25-39; Ord. No. 10911, § 2, 4-2-1990)

Secs. 40-108—40-127. Reserved.

DIVISION 3. METERS

Sec. 40-128. Meters required.

All customers shall receive water through a meter and pay the appropriate rate for such use. Meters shall be installed as required by this division. The code enforcement director and the finance director shall determine the required type and size of all meters based upon an estimate of usage and peak flows of water to be used by a customer.
(Code 1989, § 25-40; Ord. No. 12227, § 4, 1-9-2017)

Sec. 40-129. Meter ownership and maintenance.

All meters hereafter used to calculate the amount of water received by a customer shall read in cubic feet, shall be purchased from the city and shall become the property of the city when placed in operation. Maintenance and future replacement of the meters, including gaskets, shall be the responsibility of the city. Any damage due to hot water, freezing, or other external causes arising out of, or caused by, the customer's negligence, such as not properly winterizing, or carelessness shall be paid for by the customer or property owner. If the meter is not installed in accordance with all appropriate sections of this division the maintenance and replacement of the meter will be the responsibility of the customer.
(Code 1989, § 25-41; Ord. No. 12227, § 4, 1-9-2017)

Sec. 40-130. Meter specifications and installation.

(a) The finance director shall have the right to remove any privately owned meter and deliver it to the owner, and to replace the same with a

city owned meter of similar size per section 40-129. The code enforcement director shall have the right to change the size and type of meter at the customer's expense. All residential water meters must be installed in a horizontal or vertical position using a meter yoke. An approved ball valve must be installed in front of and behind the meter, to allow isolation of the meter. Meters located inside a structure must use the city-issued couplers on the inlet and outlet during installation to allow for maintenance and removal of meters by city. All meters shall be installed in accordance with manufacturer's specifications and the provisions of this Code. Installation of new meters will require inspection by water department technicians prior to acceptance. Meters installed improperly will be reinstalled or repaired at the customer's expense.

(b) Water pipes which bypass the customer's meter are prohibited. In the case of water meters greater than two inches in size, if the customer is unable to withstand reasonable interruptions in service upon 48 hours' prior notice, for purposes of testing or maintaining the customers meter, then the customer must install a valved bypass line at the sole expense of the customer, and the bypass line shall be protected by a locked valve and city protective seal.

(c) All meters shall be installed in a properly designed and protected meter pit/tile unless there isn't sufficient space as outlined in section 40-132. Meters in a meter pit/tile shall have the radio antenna module mounted on the bottom of the lid. New service in which a meter pit/tile cannot meet the distance requirements should be installed in accordance with section 40-132. For all meters located inside a residence, the residence must be accessible to city personnel during normal business hours. Damage to meters, antennas, or wires due to customer negligence or carelessness shall be paid for by the customer or property owner.

(d) If multiple meters are installed each meter shall have a stop box or shut off valve installed in the service line prior to the meter. If one meter services multiple customers (i.e., mobile home parks), each residential service line will have a stop box or shut off valve installed in the service line prior to entering the residence. Apartment complexes should install all meters in one utility closet on the ground floor and made easily accessible with shut off valves located in each service line prior to the meter.

(e) The city will not allow any entity to sub-meter water service in a multi-unit facility. Each unit must install a city-purchased meter, with the exception of water service provided to all residents through a single meter.
(Code 1989, § 25-42; Ord. No. 12227, § 4, 1-9-2017)

Sec. 40-131. Meter locations.

Meters for all buildings, other than those defined in section 40-132, shall be installed as follows:

(1) The meter shall be placed in a meter pit/tile located along that portion of the customer's property line abutting the highway, street, alley or utility easement in which the water main lies, or as determined by the code enforcement director.

(2) Placement of a five-eighths or three-fourths inch size meter within a meter tile shall comply with the installation specifications contained in Figure 1, located at the end of this article. Meters shall be installed 24 inches or less below the meter lid.

(3) When meters larger than three-fourths inch are placed in a meter tile, they shall comply with the installation specifications contained in Figure 2, located at the end of this article.

(4) Exceptions. If it is determined by the code enforcement director that meter placement within a meter tile is not feasible due to the likelihood of unreasonable accumulation of groundwater, the meter shall be located inside the building or structure to be served thereby, on the ground floor thereof, with the same minimum clearances as if located in a basement, as prescribed in section 40-132.

(5) No fencing or permanent structures is allowed within three feet of a meter.

(Code 1989, § 25-43; Ord. No. 12227, § 4, 1-9-2017)

Sec. 40-132. Meter locations for buildings 75 feet or less from the centerline of a road.

(a) Meters for buildings where the shortest distance between the centerline of the road containing the main and the closest edge of the building is 75 feet or less may be installed in one of the following locations:

(1) *Basement.* Meters located in a walk in basement shall have not less than eight inches clearance on all sides. The meter shall have not less than 12 inches clearance above the face of the meter, and shall be located not less than 24 inches and not greater than 48 inches above the floor of the basement. If the meter is enclosed a minimum 16-inch height/width access door will be installed.

(2) *Common areas.* Meters located in common areas shall have the same minimum clearances as provided for in basement locations. Common areas shall be unlocked and readily accessible to the appropriate city personnel at any reasonable time.

(3) *Exceptions.* If it is determined by the code enforcement director that it is not feasible to locate the meters in a basement, then the meter shall be located in compliance with section 40-131.

(b) Meters are no longer allowed to be placed in crawl spaces.

(Code 1989, § 25-44; Ord. No. 12227, § 4, 1-9-2017)

Sec. 40-133. Mobile home park meter locations.

(a) Location of the water meter when the mobile home park is served by a single meter shall be as follows:

(1) The meter shall be placed in a meter pit/tile located along that portion of the customer's property line abutting the highway, street, alley or utility easement in which the water main lies, or as determined by the code enforcement director.

(2) Placement of the meter within a meter tile shall comply with the installation specifications contained in Figure 1, located at the end of this article.

(3) Those meters already in existence as of April 2, 1990, may remain in their current location.

(4) Each mobile home shall have a stop box or shut off valve located in the service line associated with the residence.

(b) Location of water meters when the mobile home parks have existing individually metered units shall be as follows:

(1) The meter shall be placed in a meter pit/tile located not closer than five feet from the mobile home or any additions or improvements served thereby.

(2) Placement of the meter within a meter tile shall comply with the installation specifications contained in Figure 1, located at the end of this article.

(Code 1989, § 25-45; Ord. No. 12227, § 4, 1-9-2017)

Sec. 40-134. Meter tests and meter profiles.

(a) The finance director may remove any meter for routine testing, repairs, or replacement, at no charge to the customer. Any customer may request to have the water meter in use by the customer examined or tested by notifying the finance director, who shall cause an accurate test of the water meter to be made. If the test shows that the meter is or was correct, the cost of the test shall be paid by the customer. If the meter is tested by the city, then the cost of the test shall be as outlined in the city's fee schedule. If the meter is tested by an independent testing agency, then the cost of the test shall be the actual amount charged for the test. If the test shows that the meter is not or was not correct, there will be no charge to the customer for the test, and the customer's bill will be adjusted as provided for in subsection (b) of this section.

(b) Whenever, upon testing by the finance director, any water meter is found to have an average error of not more than 1.5 percent, the meter shall be considered to be accurate and correct, and no adjustment shall be made to any charge or bill for service prior to the date of the test. If, upon testing by the finance director, any water meter is found to have an average error of more than 1.5 percent, the meter shall be corrected or replaced, at the option of the finance director, and an appropriate correction or charge, in keeping with the percentage of error found upon the test of the meter, shall be made to the bills or charges for water service measured through the meter during a period of not more than 60 days prior to the date of the test.

(c) If it be found that, during any period of time, a water meter has failed to register for any reason, the customer provided water through the meter shall be billed by the finance director, and shall pay to the finance director, a charge for water estimated by the finance director on the basis of:

(1) The amount of water provided to the customer accurately measured, during the period of 30 days preceding or succeeding the time when the meter was discovered to have failed to register or before the same was found to be in error; or

(2) Any other available information needed to properly calculate the customer's usage during the period when the meter failed to properly register.

(d) Any customer may request a meter profile be obtained if the customer believes there are inaccuracies with the meter readings. The cost of the meter profile will be the same as the cost to test a water meter by the city. If the profile shows the meter was not correct, there is no charge to the customer for the profile and the customer's account will be adjusted as provided for in subsection (b) of this section.
(Code 1989, § 25-46; Ord. No. 12227, § 4, 1-9-2017)

Secs. 40-135—40-151. Reserved.

DIVISION 4. CUSTOMER OPERATIONS

Sec. 40-152. Customer contract for service.

(a) No service shall be provided to any customer unless such customer shall have first made application for service and entered into a contract for service upon forms provided by the finance director. All applications for service shall be made in the true name of the customer actually to receive and use the service, unless otherwise permitted by the finance director, and the use of a fictitious name by the prospective customer shall be grounds for the finance director to refuse or terminate service. Presentation of valid customer identification shall be required to ensure accuracy of customer account information. A separate application and customer contract shall be required for each location for which service is desired. Any change in the identity of the customer of record (including the change of ownership of more than 50 percent of the stock of a corporation) for the customer's premises requires a new application and customer contract. The finance director may discontinue service until the new application and customer contract have been executed.

(b) Any person who obtains service for the benefit of themselves and/or for others without executing the required customer service contract shall be liable for all charges for services rendered and be subject to the provisions of section 40-295(d). In addition, any water usage at an address during the time when there is no active customer account is considered theft of service and is the responsibility of the property owner to pay and will subject the property owner to an illegal turn on fee for each instance and for each address turned on without prior execution of a customer service contract. The city views this as theft of water service. This turn on fee shall be assessed on each party responsible for this violation, including, but not limited to, the property owner and/or parties acting on the owner's behalf. This fee can be charged to any active service account of the above named responsible parties.

(c) The customer shall be liable for all charges for service rendered to the customer's premises until the customer provides written notice to the

finance director that the customer wishes to terminate service, or until otherwise terminated by the city.

(d) Service will not be allowed to continue in a deceased customer's name. The surviving spouse, who was a member of the decedent's household, will be allowed to put the service their name upon the execution of a customer service contract without the requirement of a deposit for an account in good standing. The execution of a new customer service contract and deposit, as required under this section and section 40-153, will be required for all others taking over the decedent's service.

(e) A property owner may execute a landlord responsibility contract under which the landlord may take over responsibility of payment of an account when there is no other customer signed up for that service address. The landlord responsibility contract is available to a property owner who has established 24 consecutive months of service immediately preceding the effective date of the contract with no more than three delinquent bills nor been disconnected for nonpayment of any account during the time period or who pays the required deposit of $80.00 per meter location. After a landlord has established a 24-month satisfactory record of payment, as determined by the finance director, with no delinquent bills nor been disconnected for nonpayment, the deposit will then be applied to any outstanding accounts and the remaining balance refunded to the owner. Service may be terminated on any customer at a service address under a landlord responsibility contract as provided under section 40-154. The property owner shall be responsible for payment of the tenant's unpaid account prior to any establishment of future service at that address.

(f) An agent representing a property owner may establish a service continuation agreement with the city where the service at an address as provided to the city will not be disconnected until either a new customer service contract is executed for that address or the service continuation agreement is cancelled by either the agent or the city. No security deposit shall be required of the agent. The agent and property owner represented shall be jointly and severally liable to pay for the services rendered to the premises and failure to pay for such services will result in their disconnection; transfer of outstanding charges to another account of the agent or property owner; and shall result in the agent being ineligible to further participate in the service continuation program. An annual nonrefundable administrative fee will be required of each agent prior to participation in the service continuation program.

(g) All customers shall be subject to the provisions of this section, together with all applicable rules and regulations heretofore or hereafter adopted or promulgated by the city.
(Code 1989, § 25-50; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11378, § 5, 3-15-1999; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 12176, § 1, 10-19-2015)

Sec. 40-153. Security deposit.

(a) A deposit shall be required for all permanent or temporary service connections to the city's public water supply system as security for the payment of bills, except when waived under the conditions hereinafter provided, on service applicable to both residential and commercial accounts. If the city shall connect water service for reasons of its own convenience prior to payment of the deposit, and thereafter if the customer shall fail to pay the deposit within the time specified by the city, the service may be disconnected. A minimum deposit amount shall be made in accordance with the city's fee schedule, with the following exception: If the minimum deposit required for service is less than an amount equal to twice the anticipated monthly utility bill, or an amount based on the applicant's previous deposit and payment history, then the required deposit amount will be estimated by the finance director.

(b) If an applicant for service has previously established a satisfactory record payment for city utility services for a period of 24 consecutive months immediately preceding the date of the customer service contract with less than four delinquent payments within the last 12 months of service, then the requirement of an initial deposit shall be waived. If an owner of property

applies for a service connection, and is not going to occupy the premises to be served thereby, and has executed a lessor responsibility contract with respect to the premises, then the requirement of an initial deposit shall be waived. This waiver shall only be available for premises used as one- or two-family dwellings.

(c) After a customer who is the property owner has established a satisfactory record of payment of a particular account for a period of 24 consecutive months, with no delinquent bills during the time period, then the initial deposit for the account, if any, shall be applied to the account. Deposits on file effective with the date of the ordinance from which this section is derived will be subject to the requirements of this section. The customer shall be eligible for a refund of deposit upon termination of service, provided all bills are paid to the date of termination. The finance director will deduct the amount of any unpaid bill from the deposit and credit the account of the customer in such amount. The customer shall be given an automatic refund of any balance of deposit remaining mailed to the last-known address. Unclaimed refunds will be retained by the city for a period of three years and then will be turned over to the state. The city has the right to apply any refund to any outstanding bill owed to the city in the customer's name.

(d) Reinstatement of deposit; increase of deposit. If a customer's service has been disconnected for nonpayment of a bill, then the following shall apply:

(1) A deposit shall be required, regardless of whether previously waived or refunded. Such deposit shall be equal to three times the anticipated monthly bill, including anticipated penalty fees, as estimated by the finance director, or $180.00, whichever is greater.

(2) Anyone who shall violate section 40-273(d), (e) or (f) shall be required to pay the city an increased customer deposit equal to the estimated loss of water over the period of time of the violation or $250.00, whichever is greater.

(e) No deposit shall be required for industrial customers or governmental agencies.

(f) If an applicant for service is not the owner of the property, the deposit will be either the minimum as listed in the city's fee schedule or an amount based on the applicant's deposit history under subsection (a) of this section, whichever is greater. The deposit will be held by the city until either the applicant/customer is no longer a customer of the city utility services or becomes the owner of the property served and subject to subsection (c) of this section. The requirement of a deposit shall be waived if the owner of the property signs a waiver acknowledging the owner's responsibility should the utility account become delinquent.

(g) For those tenants having a deposit on file as of January 1, 2009, no additional deposit will be required unless service is disconnected due to nonpayment; then subsection (d) of this section will apply.
(Code 1989, § 25-51; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11378, § 6, 3-15-1999; Ord. No. 11615, § 1, 4-7-2003; Ord. No. 11642, § 10, 11-17-2003; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 11850, § 1, 12-1-2008; Ord. No. 12036, § 1, 12-17-2012; Ord. No. 12052, § 1, 4-1-2013)

Sec. 40-154. Rendering and payment of bills.

(a) The finance director shall have the right to read meters and render bills. A service bill may include any of the following:

(1) Water charges at the applicable rate;

(2) Sewer charges at the applicable rate;

(3) Any applicable state or local taxes;

(4) Trash service charges on a pro-rata basis at the applicable rate for the duration of time that the city is responsible for such billing;

(5) Clean-up fee assessed as necessary at the applicable rate;

(6) Any other cost, charge, or deposit provided for in this article.

(b) Bills and notices to any customer shall be deemed to have been delivered when deposited in the United States mail, postage prepaid, addressed to the last-known address of the customer as shown on city records.

(c) Payments shall be made at the Finance Department, City Hall, 201 South Franklin, Kirksville, Missouri 63501, or any authorized agency or location. All bills will be due and payable on or before the 20th of the following month after the billing date. If the 20th falls on a Saturday or Sunday, the bill will be due on Monday by the close of business hours. If the 20th falls on a city holiday, the bill will be due the next business day of that month. If any bill is not paid on or before the aforementioned schedule, the bill shall become delinquent and a ten percent penalty will be assessed on the outstanding balance. All customers will be subject to this ten percent penalty.

(d) The occupant and user of the premises receiving water service and the owner of the premises shall be jointly and severally liable to pay for the services rendered to the premises. A minimum charge shall be paid whether the quantity of water is used or not. Credit shall not be allowed for any cause unless discontinuance of service has been requested by the customer in writing and service has not been shut off by the city. Further, where the landlord or property owner fails to pay the utility charges, the city shall refuse to provide any water service to the premises with the delinquent charge, even if applied for in the name of a subsequent tenant or new owner of the property, unless the subsequent tenant or new owner of the property pays a service connection fee to the city in an amount equal to the delinquent charge. If a landlord or new tenant pays the service connection fee in an amount equal to the delinquent charge owed on behalf of the previous tenant or previous owner of the property, then the amount paid plus anticipated collection fees, if any, will be sent to a collection agency. Any amount recovered from the collection agency will be returned to the person who paid the account balance.

(1) *Landlords responsible for utility bills.* Every property owner shall be responsible for any utility charges or fees left unpaid by any tenant of the premises served by the water or sewer utility. Any water consumption used at the premises, after a tenant has signed out of active service and before the new tenant has signed up for service, will be billed to the property owner who uses the service without signing a service contract form. The latter would also be considered theft of services. It is the responsibility of the owner to notify the city regarding change in ownership.

(2) *Delinquent accounts.* When a tenant is delinquent in payment, the city shall make a good faith effort to notify the owner of the premises who has a current landlord agreement with the city and the amount thereof.

(3) *Penalty; severability; effective date.* This subsection (d) shall be in full force and effect upon its passage and approval, except that landlords will not be liable for unpaid delinquent utility bills incurred before the effective date of the ordinance from which this section is derived, unless the utility customer remains a tenant of the landlord for 90 days past the effective date of the ordinance from which this section is derived. The provisions of this section are severable, as provided in RMSo 1.140.

(e) The city shall not be bound by bills rendered under mistake of fact as to the quantity and nature of service rendered.

(f) If payment of outstanding bill, penalty, and any applicable charges is not received by the due date, the city will begin service termination and the customer shall be subject to the following charges to be eligible for reconnection:

(1) Past due bill is paid in full, including penalties and any applicable charges.

(2) Payment of any deposit which may have been reinstated or increased pursuant to section 40-153.

(3) Payment of reconnection charges are as follows:

a. A nonrefundable delinquent turn on fee will be assessed when reconnection is made between the hours of 8:00 a.m. and 4:00 p.m. on normal business days, Monday through Friday.

b. A nonrefundable delinquent turn on fee will be assessed when reconnection is made at any time other than as specified in subsection (f)(3)a of this section.

(g) Submetering or resale of water by the customer is prohibited unless approved in writing by the department of natural resources, state and the city manager. A separate bill shall be rendered for each meter. Water furnished to the same customer through separate meters shall not be added or cumulated for billing purposes. In the event a customer fails to pay a bill incurred at one address to the extent that service is terminated, then the finance director shall add the amount of the delinquent bill to the bill for service at any other address at which the person is a customer. If the bill thereafter shall become delinquent and remain unpaid for 14 days, then service shall be terminated at that address under the procedures provided for herein.

(h) The finance director is hereby authorized to meet with any customer upon request, during regular business hours, to review any bill alleged by the customer to be in error, and if it is determined that the bill is in error, then the finance director shall be empowered to adjust the bill accordingly.

(i) No service shall be furnished or rendered free of charge to any customer, except for the legitimate purpose of the extinguishment of fire.

(j) A minimum charge, or applicable tariff, shall be paid whether such quantity of water is used or not. Credit shall not be allowed for any use under the minimum charge.

(k) Payments will be applied to an outstanding bill in the following order: trash service, clean-up fee, sewer service and then water service, inclusive of applicable taxes. Partial payment of an outstanding bill will subject the customer to the provisions in this section

(l) Mobile home parks that are master metered will also be subject to the provisions of this section. A 72-hour notice before service is terminated will be given by the city through either a notice posted in a common area at the site, or by door hangers placed at individual tenant sites. This will be deemed sufficient notice to the tenants of a service termination.

(m) Customers may request a waiver of the ten percent late payment penalty on a city utility bill paid late if:

(1) The customer has a current active account with the city in the customer's name;

(2) The request for waiver is made within 15 days of the due date missed; and

(3) The customer signs up for the city's direct debit service which remains in effect for a minimum for 24 months. If a customer is or becomes disqualified from using the direct debit service or voluntarily terminates the service within that 24-month period, the late payment penalty that was previously waived will then be added back to the account.

(n) As a courtesy, the city may send out door hangers prior to disconnection. The issuance of a door hanger will result in an additional fee payable immediately to avoid disconnection of service.

(o) A returned check fee will be assessed to the maker for every check, credit card ACH or direct debit that has been returned to the city without being honored by a banking institution. All returns will be put back on a customer account and may subject the customer to termination of service if left unpaid.

(p) If a bill has been rendered using an estimated consumption due to the city's inability to correct the meter, or obtain an actual reading and the actual reading results in a bill to be four times more than a six-month average using the most recent six months billing, the finance director is authorized to accept payment in equal

installments up to six months of no less than two times the average bill based on the same six months. A payment plan will not be offered to customers who failed to provide the city access to the meter within 90 days from the first notification date made by the city.

(q) If a final invoice has not been paid by the due date, then the balance owed, plus anticipated collection fees, will be sent to a collection agency. (Code 1989, § 25-52; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11378, § 7, 3-15-1999; Ord. No. 11642, §§ 11, 12, 11-17-2003; Ord. No. 11717, § 2, 6-27-2005; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 11849, §§ 1—3, 11-17-2008; Ord. No. 11851, § 1, 12-1-2008; Ord. No. 12036, § 1, 12-17-2012; Ord. No. 12095, § 1, 1-6-2014; Ord. No. 12227, § 5, 1-9-2017)

Sec. 40-155. Temporary disconnection of service.

(a) For the purpose of repairs or alterations, the owner of the property served by a particular meter, or a plumber, or the city, may temporarily disconnect service to the owner's premises for a period of less than ten days, without affecting the existing customer service contract, by turning the water off and on at the meter or stop box. A service charge shall be assessed for the second and each subsequent connection or disconnection performed by the city at the customer's request.

(b) When a leak occurs from the customer service pipe, service shall be temporarily disconnected at the direction of the finance director or public works director, if the following conditions exist:

(1) A leak has occurred between the street service pipe and the water meter.

(2) The customer or property owner has been given notice that a leak exists.

(3) Seventy-two hours have elapsed since notice of leak was given and the leak has not been repaired.

(4) If the leak has not been repaired within the ten-day period, the customer's contract for service will then be terminated under the provisions of section 40-156.

(5) Presents an unsafe or hazardous condition.

(6) In the event that a leak continues to exist and the action of the city discontinuing water service would result in multiple customers (i.e., mobile home parks) being without water, the city may elect to make the repairs necessary to continue water service. The city then may elect to seek prosecution of the owner of land where the leak existed. Any costs, including legal fees, incurred by the city for repairing the water lines owned by the landowner will be sought through the city's legal action process. City material and manpower cost for this type of repair will automatically be assessed to the customer's monthly bill.

(Code 1989, § 25-53; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11642, §§ 13, 14, 11-17-2003; Ord. No. 11848, § 1, 11-17-2008)

Sec. 40-156. Termination of service.

(a) A customer's contract for service shall be terminated either upon the customer's notification to the finance director or due to nonpayment of an account for services. Upon receipt of the notification, the customer's meter will be read and charges for services provided to the customer up to and including the time of termination shall be computed. Thereafter, a final bill shall be rendered, given an allowance for any applicable security deposit, and the final bill shall be due and payable in accordance with the terms of section 40-154. When the customer's contract for service is terminated upon the city's initiative due to nonpayment of an existing account or due to failure to properly execute a customer service contract, then the customer's meter will be read and charges for services provided up to and including the time of termination shall be computed. Thereafter, a final bill shall be rendered, given an allowance for any applicable security deposit, and the final bill shall be due and payable in accordance with the terms of section 40-154.

(b) If a contract for service is terminated for the failure of a customer to repair a leak on a private main, or the customer service pipe, service shall not be reconnected until the following conditions have been met:

(1) Final bill is paid in full, including penalties.

(2) Payment of any required deposit.

(3) Payment of reconnection charges as follows:

a. A nonrefundable reconnection charge will be assessed when the reconnection is made between the hours of 8:00 a.m. and 4:00 p.m. on normal business days, Monday through Friday.

b. A nonrefundable reconnection charge will be assessed when reconnection is made at any time other than as specified in subsection (b)(3)a of this section.

(4) Satisfactory evidence is provided that the leak has been repaired.

(5) If applicable, payment for city material and manpower used to repair the leak is paid in full.

(c) A convenience fee as outlined in the city's fee schedule will be assessed on those customers who terminate their service for a period between five days to six months who have the intent to return to the same service address and reestablish water service.

(Code 1989, § 25-54; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 12036, § 1, 12-17-2012)

Sec. 40-157. Adjustments for leaks.

An adjustment in a customer's bill may be made by the finance director when a leak has caused the customer's bill to be at least four times the average bill, not including trash services, as calculated by the finance director. A paid detailed receipt for a repair made to remedy the leak must be submitted to the finance department. The vendor on the detailed receipt cannot be the same person or business listed on the account who is requesting the leak adjustment. The leak adjustment will be applied to the customer account when the finance director determines that the leak has been properly repaired based on consumption readings. In the event that a leak adjustment has been given to a property owner which has then prevented a tenant from obtaining a leak adjustment at the same service address, the city has the discretion to disallow the leak adjustment given to the property owner. The leak adjustment disallowed may be assessed on any account in which the property owner is a customer. The property owner will not be eligible for any further leak adjustment requests until the disallowed leak adjustment is paid in full. One leak adjustment per water meter may be allowed in a 12-month period and will be administered to the highest water bill of the leak period. The leak adjustment will equal an amount not to exceed 50 percent of the cost of the leak over and above the average amount of the customer's bill using up to the last six billing periods. No leak adjustment will be made for less than $50.00. The city manager may authorize additional leak adjustments up to 75 percent of the cost of the leak over and above the average amount of the customer's bill during the preceding six months where unique, extraordinary and specialized circumstances warrant such an adjustment.

(Code 1989, § 25-55; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11152, § 2, 7-18-1994; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 12036, § 1, 12-17-2012)

Secs. 40-158—40-182. Reserved.

DIVISION 5. RATES

Sec. 40-183. Water rates.

This division shall apply to all customers of the city and no water service shall be provided free to any customer.

(Code 1989, § 25-60; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11609, § 1, 3-17-2003; Ord. No. 11685, § 3, 9-27-2004; Ord. No. 12227, § 6, 1-9-2017)

Sec. 40-184. City customers and public water supply districts.

Water user charges will be comprised of two components: a fixed service availability fee and a volume charge based on the amount of water usage, as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website.

(1) The service availability fee shall be a monthly charge based on meter size to all customers. If service is for less than a full month, the service availability fee will be prorated based on number of days of service.

(2) The volume charge shall be billed to all water customers monthly based on the amount of cubic feet consumed based on a tiered system. All accounts will be charged a minimum monthly volume charge equal to the cost of 200 cubic feet of water usage per month.

(Code 1989, § 25-60.1; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11609, § 1, 3-17-2003; Ord. No. 11685, § 3, 9-27-2004; Ord. No. 11814, § 1, 11-20-2007; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 11901, § 1, 12-21-2009; Ord. No. 11944, § 1, 12-20-2010; Ord. No. 11987, § 1, 12-29-2011; Ord. No. 12095, § 1, 1-6-2014; Ord. No. 12131, § 1, 10-20-2014; Ord. No. 12176, § 1, 10-19-2015; Ord. No. 12227, § 6, 1-9-2017)

Sec. 40-185. Extra-territorial customers.

Extra-territorial customers shall pay for water usage based on the same formula as prescribed in section 40-184, except that the volume charge shall be 150 percent of the city rate. The minimum volume charge shall also be 150 percent of the city customer rate for usage which does not exceed 200 cubic feet of water per month. The service availability fee will be equal to the fee charged to city customers.

(Code 1989, § 25-60.2; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11609, § 1, 3-17-2003; Ord. No. 11685, § 3, 9-27-2004; Ord. No. 11814, § 1, 11-20-2007; Ord. No. 11944, § 1, 12-20-2010; Ord. No. 12227, § 6, 1-9-2017)

Sec. 40-186. Industrial customers.

The rate for industrial customers located inside the city limits shall be the same formula as prescribed in section 40-184.

(Code 1989, § 25-60.3; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11609, § 1, 3-17-2003; Ord. No. 11685, § 3, 9-27-2004; Ord. No. 11814, § 1, 11-20-2007; Ord. No. 11944, § 1, 12-20-2010; Ord. No. 11987, § 1, 12-29-2011; Ord. No. 12095, § 1, 1-6-2014; Ord. No. 12131, § 1, 10-20-2014; Ord. No. 12176, § 1, 10-19-2015; Ord. No. 12227, § 6, 1-9-2017)

Sec. 40-187. User charge system.

The user charge system shall generate adequate annual revenues to pay the costs of annual operation and maintenance, including replacement, and cost associated with debt retirement of bonded capital associated with financing the water system which the city may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance, including replacement of the water system, shall be established by this division. As such, the city shall review the user charge system annually and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay required costs.

(Code 1989, § 25-60.4; Ord. No. 11685, § 4, 9-27-2004)

Sec. 40-188. Operation, maintenance and replacement fund.

(a) That portion of the total user charge collected which is designated for the operation and maintenance, including replacement purposes, shall be deposited into a separate non-lapsing fund known as the operation, maintenance and replacement fund and will be kept in two primary accounts as follows:

(1) The operation and maintenance account shall be an account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the water system. Deposits in the operation and maintenance account

shall be made on an annual basis from the operation and maintenance revenue.

(2) The replacement account shall be an account designated for the purpose of ensuring replacement needs over the useful life of the water system. Deposits in the replacement account shall be made on an annual basis from the replacement revenue in the amount of $220,594.20 annually.

(b) Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in each subsequent fiscal year and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.
(Code 1989, § 25-60.5; Ord. No. 11685, § 4, 9-27-2004)

Secs. 40-189—40-214. Reserved.

DIVISION 6. PRIVATE COMPONENTS

Sec. 40-215. Maintenance of private water supply systems.

The maintenance of all components of a private water supply system or private line shall be the responsibility of the property owner or owners.
(Code 1989, § 25-70; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-216. Continuity of service for private water supply systems.

The city reserves the right to discontinue the flow of water for a private water supply system connected to the city's public water supply system at any time, to make repairs, extensions, or alterations to the city's public water supply system. Nevertheless, the public works director, so far as possible, shall notify customers of the intent to discontinue the flow of water to affected customers prior to discontinuing service. No claim shall be made against the city and no person shall be entitled to any damages by reason of the breaking of any pipes or by reason of any other interruption of the supply of water caused by mechanical breakdown or by other causes within the city's public water supply system.
(Code 1989, § 25-71; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-217. Leak repairs on private customer service pipes.

Whenever a leak occurs on a private customer service pipe between the point of delivery and the customer's water meter, the customer must repair the leak within 72 hours after written or verbal notice to the customer that a leak exists. If the leak is not repaired at the expiration of 72 hours after notification to the customer, service may be discontinued. The city reserves the right to discontinue service without notice if the leak is causing an excessive amount of water loss, or is a threat to the public's health, safety or welfare.
(Code 1989, § 25-72; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11642, § 15, 11-17-2003)

Secs. 40-218—40-242. Reserved.

DIVISION 7. MISCELLANEOUS

Sec. 40-243. Access to premises.

(a) The city shall have the right to enter upon the premises of any customer for the purpose of reading water meters to repair, examine, test, and/or change any water equipment, meter, apparatus, and/or pipe, inspect the individual water supply system, or plumbing of the customer, and otherwise determine that the customer is in compliance with the provisions of this article.

(b) The resident and/or property owner of each service address has the responsibility to ensure safe and clear access to water meters, remotes or any appurtenance used for the purpose

of recording and reading water and/or sewer consumption. Such action will include, but not be restricted to, the restraining of dogs and other animals, access through locked gates or fences, the clearing of overhanging trees, branches, and shrubs near and around any water consumption reading device, along with the removal of any obstacles or debris, or any other stationary object that may obstruct a clear and safe path to any such reading device.

(c) The customer and/or property owner of a service address at which the meters or remotes are inaccessible will be subject to a service inaccessibility fee as provided in the city's fee schedule per trip to read, inspect or to service the meter or remote. Failure to pay this charge will subject the service to immediate disconnection. When the city, during normal working hours, is unable to read a customer's meters for four successive regular meter reading cycles, the service shall be subject to immediate disconnection and will not be reconnected until the customer or property owner relocates, at their expense, the meter to a meter tile that is in an unobstructed and accessible location and is in accordance with city specifications. Any stop box that is subject to relocation will also be done at the customer or property owner's expense.
(Code 1989, § 25-80; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-244. Customer responsibilities.

(a) Each customer shall pay the finance director for all damage to or destruction of property of the city located on or off the customer's premises where damage is caused directly or indirectly by the customer, excepting only that resulting from ordinary wear and tear, and storm damage. Each customer shall notify the public works director promptly of any defects in the city's public water supply system that might affect service to the customer or might be dangerous to the public or public property.

(b) Any customer of the city shall pay for the cost incurred by the city for the repair of the customer's meter damaged by freezing, negligence or vandalism. Any customer shall pay to the city the costs incurred by the city to repair a meter, regardless of location, if damaged by any other act or omission of the customer. If repairs to a meter are made as a result of any damage by any of the causes mentioned above, the finance director shall send the customer an itemized statement of the labor and repairs necessary to repair the meter and if the account is not paid within 30 days after the receipt thereof, the city shall disconnect the customer from service. If the service is disconnected, the customer shall pay the charges for disconnection and reconnection as required by this article.

(c) At least once per year, the owner of the property shall read the meter and compare that reading to the most recent bill. If the reading is higher than the reading on the most recent bill by at least 1,000 cubic feet or two times the average bill, whichever is greater, then the property owner shall contact the finance department. The property owner is responsible for any difference between the meter reading and the reading on the last bill.

(d) The owner of the property shall be responsible for all unpaid water and sewer services which have been previously provided to the subject premises. If any unpaid water and sewer services were consumed by a previous property owner or occupant, then the city will use whatever efforts it deems reasonable, in the sole discretion of the city, to collect the amount owed by the previous property owner or occupant, and will reimburse any such sums collected to the current owner who paid such previous charges.
(Code 1989, § 25-81; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 12036, § 1, 12-17-2012; Ord. No. 12051, § 1, 3-18-2013)

Sec. 40-245. City responsibilities.

The city shall have no duty, obligation, or responsibility with respect to the plumbing of any water customer, other than to maintain, repair or replace any city owned water meters and metering devices within the customer's premises. The city shall maintain and repair the street service pipe from the main to the point of delivery to the customer. No claim shall be allowed to any water customer against the city by reason of the bursting of any main, pipe,

service cock, circulating boiler or other boiler, or heating apparatus of a customer caused by the cessation of the flow of water from the public water supply system to the customer's premises. The city shall not be liable for any injury, damage or loss resulting from the use of water on the customer's premises, or from the presence, location, maintenance or use of any water piping, fixture, or equipment on the customer's premises. (Code 1989, § 25-82; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-246. Continuity of service.

The city reserves the right to discontinue the flow of water within the city's public water supply system at any time, to make repairs, extensions, or alterations to the city's public water supply system. Nevertheless, the public works director, so far as possible, shall notify customers of the intent to discontinue the flow of water to affected customers prior to discontinuing service. No claim shall be made against the city and no person shall be entitled to any damages by reason of the breaking, maintenance, or replacement of any pipes or by reason of any other interruption of the supply of water caused by mechanical breakdown or by other causes within the city's public water supply system. (Code 1989, § 25-83; Ord. No. 10911, § 2, 4-2-1990)

Sec. 40-247. Water emergencies or drought.

(a) The city manager shall have the authority to establish reasonable restrictions on the use of water by customers in the instance of water main breaks, major fires, pollution or contamination to the water supply, deterioration of the quality of the water supply, drought, or other emergencies that threaten the public water supply system. Prior to the restrictions becoming effective, the city manager shall make every effort to ensure that the public is made aware of the problem and the type of restrictions being imposed.

(b) The city council shall approve any long-term water usage restrictions such as during a drought and shall establish penalties for violation of such restrictions. (Code 1989, § 25-85; Ord. No. 10911, § 2, 4-2-1990)

Secs. 40-248—40-272. Reserved.

DIVISION 8. PROHIBITED ACTS

Sec. 40-273. Prohibitions.

(a) No person shall turn the water on or off at any hydrant, or tamper with any hydrant, except for the purpose of extinguishing a fire, without the consent of the public works director or finance director.

(b) It shall be unlawful for any person to connect either a private water supply system or an individual water supply system to the public water supply system owned and operated by the city.

(c) It shall be unlawful for any person to deface, paint, mar, scratch, or vandalize any water tower, fire hydrant, water pump house, facility of the water treatment plant or other component of the public water system.

(d) It shall be unlawful for any person to obtain service from the city without paying for the water at the appropriate rate.

(e) It shall be unlawful to remove or tamper with a meter, remove any screws that are meter components, place the meter in a position so that it does not read properly, disconnect or tamper with a remote meter reading device or to open meter bypass valves.

(f) It shall be unlawful for any customer, developer or subdivider to construct any portion of a water system component required by this article not in compliance with the standards set forth.

(g) It shall be unlawful for any customer to turn service back on at their premises after being shut off by the city without paying the required deposits and charges. No person shall turn the water on or off at any street valve, corporation cock, stop box, or other street connection, or tamper with any of the same, without the consent of the public works director or finance director, except as provided for in section 40-155.

(h) It shall be unlawful for any person to contaminate or allow any other person to contaminate the water in the public water supply system or its sources of untreated water.

(i) It shall be unlawful for any person to occupy, or permit another person to occupy, any structure or premises that is not supplied with potable water via connection to either a public water system or to an approved private water supply system.
(Code 1989, § 25-90; Ord. No. 10911, § 2, 4-2-1990; Ord. No. 11901, § 1, 12-21-2009)

Secs. 40-274—40-294. Reserved.

DIVISION 9. VIOLATIONS

Sec. 40-295. Violations.

(a) Anyone who shall violate any of the provisions of this article, not otherwise specified in this section, shall be guilty of an ordinance violation and, upon conviction, shall be punished by a fine as provided in section 1-8, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment.

(b) Anyone who shall violate section 40-273(a) shall be guilty of an ordinance violation and upon conviction for the first conviction shall be punished by a fine not less than $50.00 nor more than $100.00, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment. Anyone who shall violate section 40-273(a) shall be guilty of an ordinance violation and upon conviction for the second and subsequent convictions shall be punished by a fine not less than $250.00 nor more than $500.00, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment.

(c) Anyone who shall violate section 40-273(c) shall be guilty of an ordinance violation and upon conviction for the first conviction shall be punished by a fine not less than $250.00 nor more than $500.00, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment. Anyone who shall violate section 40-273(c) shall be guilty of an ordinance violation and upon conviction for the second and subsequent convictions shall be punished by a fine not less than $500.00, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment.

(d) Anyone who shall violate section 40-273(d), (e) or (f) shall be guilty of an ordinance violation and upon conviction for the first conviction shall be punished by a fine not less than $50.00 nor more than $100.00, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment, and shall be required to pay the city an increased customer deposit equal to the estimated loss of water over the period of time of the violation or $250.00, whichever is greater. Anyone who shall violate section 40-273(d), (e) or (f) shall be guilty of an ordinance violation and upon conviction for the second and subsequent convictions shall be punished by a fine not less than $100.00 nor more than $500.00, or by imprisonment for a period of time not to exceed 90 days, or by both fine and imprisonment.
(Code 1989, § 25-100; Ord. No. 10911, § 2, 4-2-1990)

Secs. 40-296—40-323. Reserved.

DIVISION 10. WATER CONSERVATION PLAN

Sec. 40-324. Generally.

The plan shall become effective upon a finding by the public works director that a probable water shortage problem exists. When it can be anticipated that there is a distinct possibility of a water distribution shortfall, the following plan will be implemented until it can be determined that the emergency no longer exists. Depending on the expected severity of the problem, it is possible that stages 2 and 3 may be implemented immediately. Requests for public cooperation shall be made through the news media. This division will affect only those citizens and commercial entities who receive water service from

the city. The restrictions found in this division will apply to all customers receiving water from the city water department.
(Code 1989, § 25-100.1; Ord. No. 11444, 4-3-2000)

Sec. 40-325. Implementation.

(a) *Stage one (mandatory).*

(1) Mandatory conservation efforts and compliance with the following restrictions are required:

a. No washing of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas; no pumping of fountain recirculating water.

b. No refilling of swimming pools with water furnished by the city.

c. No washing of cars, other motor vehicles, trailers, or boats or watering of grass.

d. No water to be used for dust control.

e. No flushing of mains by public works department personnel except to alleviate specific customer complaints.

f. Upon public notification by news media, the public works department will curtail water usage according to the department's plan for such emergencies.

g. Restriction of other water uses as deemed necessary by the city manager or public works director.

(2) If, after the initiation of stage one, weather conditions, expected trends in demand, or other factors indicate that the threat of a water shortage will continue, the additional provisions of stage two will be implemented.

(b) *Stage two (mandatory).*

(1) Stage one restrictions will remain in effect plus the following restrictions will also be requested:

a. No use or discharge of water from a fire hydrant except for fighting fires.

b. Watering of any lawn, gardens, landscaped areas, trees, shrubs, or other plants shall be prohibited.

c. Commercial and industrial users will be requested to reduce their water consumption by at least 30 percent.

d. Restriction of other water uses as deemed necessary by the city manager or public works director.

(2) If, after the initiation of stage two, weather conditions, expected trends in demand, or other factors indicate that the threat of a water shortage will continue or worsen, or if a serious problem or system emergency should develop, the mandatory measures of stage three would be implemented.

(c) *Stage three (mandatory).*

(1) Water for personal consumption, hygiene, and medical uses are the only uses authorized. All other water uses will be stopped until conditions improve.

(2) Rural water resellers will be subject to shut off from water service in accordance with the water purification facility emergency operation plan, and the city's contracts with any rural water district or company.

(3) Depending upon the severity of the problem, the plan could revert back to stage one or two or be canceled as conditions improve.

(Code 1989, § 25-100.2; Ord. No. 11444, § I, 4-3-2000)

Sec. 40-326. Commercial and industrial conservation plans.

(a) Commercial and industrial customers must submit a water conservation plan for their operation to the city public works department within 180 days of the passage of this division.

(b) The plan shall describe how the user intends to reduce water consumption during stage two of the water conservation plan. The goal of the required plan should be to reduce the

customer's usage by 50 percent. Specific measures should be listed and described (i.e., routine washing of equipment and facilities, or changes to processes requiring less water, etc.).
(Code 1989, § 25-100.3; Ord. No. 11444, § II, 4-3-2000)

Sec. 40-327. Notification provision.

(a) With respect to the mandatory provisions of this plan, a customer shall be deemed to have been notified and directed to reduce the use of water as set forth in the plan when the city manager or designated representative files such notice through the news media, except nothing contained herein shall be deemed to prohibit other means to notify persons of the need to reduce use of water in accordance with the plan.

(b) Upon the public works department taking steps to notify customers as set forth above, a customer shall be presumed to have notice and shall take steps to comply with the plan, except a customer may rebut such presumption by showing that the customer did not, in fact, have notice of the directions to comply with the provisions of this plan.
(Code 1989, § 25-100.4; Ord. No. 11444, § III, 4-3-2000)

Sec. 40-328. Compliance with the plan.

(a) All persons who receive city water service shall be entitled to receive such water service only upon strict compliance with provisions of the plan.

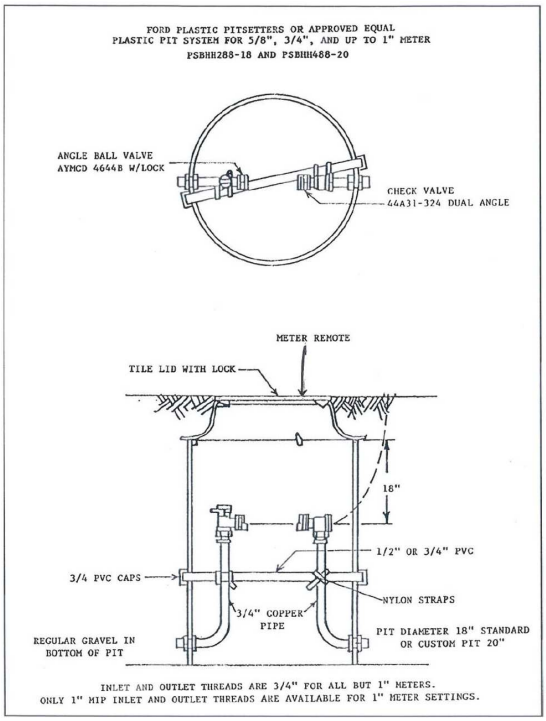
(b) It shall be unlawful for any person to violate the mandatory provisions of the plan when such person is directed to reduce or curtail their use of water as set forth in stage three of the plan. A direction to reduce or curtail shall be presumed when notice is given as set forth in the plan.
(Code 1989, § 25-100.5; Ord. No. 11444, § IV, 4-3-2000)

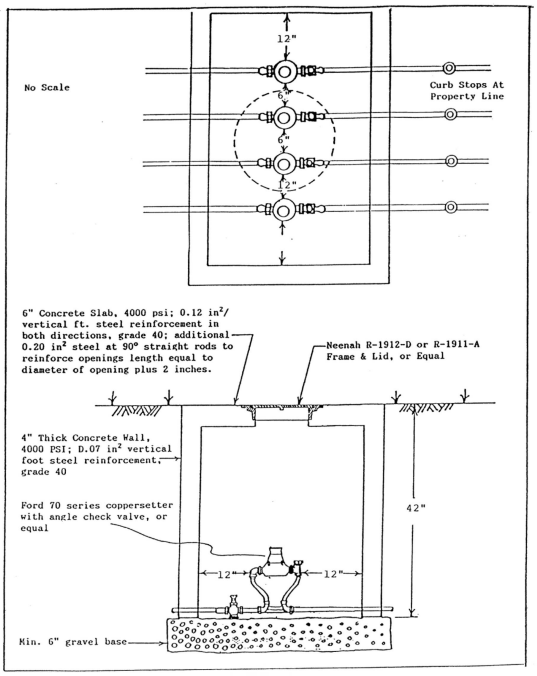
Sec. 40-329. Penalties.

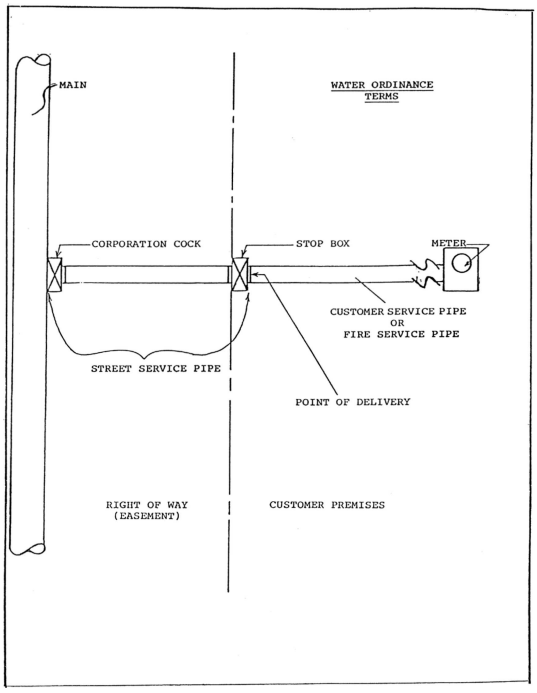
(a) Any person, who shall violate any of the mandatory provisions of the plan pertaining to discontinuance, interruption, curtailment of water service, or any large commercial or industrial user who fails to submit a conservation plan acceptable to the public works department within 180 days of the passage of this division shall be subject to the penalties set forth in section 1-8.

(b) Additionally, any large commercial or industrial user who fails to submit a conservation plan as required will be subject to termination of service during stage three of the water conservation plan at the discretion of the city. Any new customer who shall be required to file such a plan shall have a grace period of 180 days from the date of service hook-up to comply.
(Code 1989, § 25-100.6; Ord. No. 11444, § V, 4-3-2000)

Sec. 40-330. Figures 1, 2 and 3.







(Code 1989, ch. 25, art. I, div. 11; Ord. No. 12227, § 7, 1-9-2017)

Secs. 40-331—40-348. Reserved.

ARTICLE III. SANITARY SEWERS

DIVISION 1. GENERALLY

Sec. 40-349. Purpose and policy.

(a) This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (PL 95-217) and the General Pretreatment Regulations (40 CFR 403).

(b) The objectives of this article are:

(1) To prevent the introduction of pollutants into the publicly owned treatment works (POTW) of the city which will interfere with the operation of the POTW or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere, or otherwise be incompatible with the POTW;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW; and

(4) To provide for equitable distribution of the cost of constructing, operating, and maintaining the POTW.

(c) This article provides for the regulation of direct and indirect contributors to the POTW through the issuance of permits to certain non-domestic users and through enforcement of general requirements for all users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(d) This article shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city's

POTW. Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this article.
(Code 1989, § 25-101; Ord. No. 10574, § 1; 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-350. 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:

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq. (PL 92-500, as amended).

Agent includes and refers to a person or entity authorized to act for and under the direction of another person or entity when dealing with third parties, such as a realtor or property manager.

Approval authority means the director of the state department of natural resources, or authorized representative.

Authorized personnel means the city manager, approval authority, and/or personnel from the U.S. EPA, acting in accordance with their legal authority to implement and enforce the provisions of this article.

Authorized representative of a POTW user. An authorized representative of a POTW user may be:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Backflow preventer is also known as a backflow prevention device, or sewer check valve. A sewer backflow preventer keeps backwater and debris from escaping from the cleanout, and backing up into your home or business. The device allows water to flow only in one direction, while preventing wastewater and sewage from entering your living space.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius expressed in terms of weight and concentration milligrams per liter (mg/l).

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1½ meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Categorical pretreatment standard means National Categorical Pretreatment Standard or Pretreatment Standard.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Control authority means the "approval authority," defined hereinabove; or the city manager at such time as the pretreatment program is approved as required under the provisions of 40 CFR 403.11.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only change resulting from use is the addition of heat.

Customer includes and refers to any living person, firm, agency, partnership or corporation who is a property owner or resident or tenant at the service address under contract with the city to supply water to the customer's premises from the city's public water supply system or to allow connection to the city's sewer system, and the agents or employees of a customer acting on the customer's behalf.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Disconnection or termination of service means the inaccessibility to sewer services by a customer at a given service address due to either planned or otherwise actions of the customer. The usage of this term means the physical blockage of access flow into the sewer system.

Door hanger means a written notification to a customer of delinquency of account or of impending turn off or other information that needs to be communicated to the customer. The door hanger is left at an outside opening of the customer's premises.

Dwelling, double-family, means a building intended or designed for the occupancy of two households.

Dwelling, multiple-family, means a building intended or designed for occupancy of more than two households.

Easement means an acquired legal right for the specific use of land owned by others.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Floatable oil means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the POTW.

Garbage means animal and/or vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect discharge means the discharge of the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

Industrial customer means any customer engaged in the manufacture, processing, assembly or fabrication of any item, product or good, and whose premises are located wholly within the city limits.

Industrial user means a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402 of the Act (33 USC 1342).

Interference means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term "interference" includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of the SWDA) applicable to the method of disposal or use employed by the POTW.

Landlord responsibility contract means an agreement signed by the landlord of residential units and kept on file by the finance department in which the landlord accepts sewer billing responsibility at any time a tenant is not available for billing.

National categorical pretreatment standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users. Contained, in general, in 40 CFR chapter 1, subchapter N.

National pollution discharge elimination system permit or *NPDES permit* means a permit issued pursuant to section 402 of the Act (33 USC 1342).

National prohibitive discharge standard or *prohibitive discharge standard* means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

New source means any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 USC 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

pH means the logarithm (base ten) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Premises means a building or part of a building with its grounds or other appurtenances that is associated with a service address.

Pretreatment or *treatment* means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Pretreatment standard means the national categorical pretreatment standard.

Publicly owned treatment works POTW means a treatment works as defined by section 212 of the Act (33 USC 1292) which is owned in this instance by the city. This definition includes any publicly owned sewers that convey wastewater to the POTW treatment plant. For the purposes of this article, the term "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

Security deposit or *deposit* means a payment required by a customer prior to establishment of service which may be used to offset a balance owed on the customer account.

Service means to allow a customer access to sewer system privileges.

Service address means the physical address where service is provided by contract with a customer.

Service availability fee means the fee assessed to each customer that enables sewer accessibility to each service address.

Service connection or *connection* represents the physical connection to the city's sewer system.

Service continuation means the ability for agents to keep services active through participation in the service continuation program.

Significant user means any user of the city's wastewater disposal system who:

(1) Has a discharge flow of 25,000 gallons or more per average work;

(2) Has a flow greater than two percent of the flow to the POTW;

(3) Has wastes containing toxic pollutants as defined pursuant to section 307 of the Act or the state clean water law; or

(4) Is found by the city, state department of natural resources, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the POTW, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm drain means a drain or sewer for conveying stormwater, groundwater, and/or subsurface water. Also termed "storm sewer."

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suburban customer means any customer whose service address is located outside the corporate limits of the city.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

User means any person who contributes, causes or allows the contribution of wastewater into the city's POTW, except the term shall not include discharges of domestic wastewater from private residences.

User charge means that portion of the total sewer service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the sewer system upon the city's sewer customers.

Volume charge means a variable charge based on the number of cubic feet of water used during a billing period.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater contribution permit means as set forth in division 4 of this article.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(Code 1989, § 25-102; Ord. No. 10574, § 1.2, 6-20-1983; Ord. No. 10906, § 2, 3-19-1990; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001; Ord. No. 11848, § 1, 11-17-2008)

Sec. 40-351. Abbreviations.

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

BOD means biochemical oxygen demand.

CFR means Code of Federal Regulations.

COD means chemical oxygen demand.

EPA means Environmental Protection Agency.

L means liter.

mg means milligrams.

mg/l means milligrams per liter.

NPDES means national pollutant discharge elimination system.

POTW means publicly owned treatment works.

SIC means standard industrial classification.

SS means suspended solids.

SWDA means Solid Waste Disposal Act, 42 USC 6901 et seq.

TSS means total suspended solid.

USC means United States Code.
(Code 1989, § 25-103; Ord. No. 10574, § 1.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-352. Civil penalties.

(a) Any user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provision of this article, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than $100.00 nor more than $500.00 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations, and permits issued hereunder.

(b) In addition to penalties for violations or failures to comply described in subsection (a) of this section, the sewer may be dug out where it connects with the city line, plugged and tamped back at the expense of the user. The sewer may be unplugged when the user complies with this article. A fee as provided in the city fee schedule shall be charged for each time the sewer is dug.
(Code 1989, § 25-104; Ord. No. 10574, § 5.1, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-353. Falsifying information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine as provided in section 1-8.
(Code 1989, § 25-105; Ord. No. 10574, § 5.2, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-354. Acts of vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
(Code 1989, § 25-106; Ord. No. 10574, § 5.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-355. Harmful contributions.

(a) The city manager may suspend the wastewater treatment service and/or a wastewater contribution permit of any user when such suspension is necessary, in the opinion of the city manager, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of person or to the environment, causes interference to the POTW, or causes the city to violate any condition of its NPDES permit.

(b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, if required, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city manager may reinstate the

wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

(c) Prior to reinstatement of the wastewater contribution permit and/or wastewater treatment service, a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted by the user to the city manager.
(Code 1989, § 25-107; Ord. No. 10574, § 4.1, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-356. Notification of violation.

Whenever the city manager finds that any user has violated or is violating this article, wastewater contribution permit, or any prohibition, limitation, or requirements contained herein, except violations covered in section 40-352, the city manager shall serve or cause to be served upon such person a written notice stating the nature of the violation. Within 30 days of the date of such notice, a plan for the satisfactory correction thereof shall be submitted to the city manager by the user.
(Code 1989, § 25-108; Ord. No. 10574, § 4.2, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-357. Revocation of permit.

Any user who commits the following acts is subject to having the user's permit revoked:

(1) Failure of a user to factually report the wastewater constituents and characteristics of the user's discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of user's wastewater contribution permit.

(Code 1989, § 25-109; Ord. No. 10574, § 4.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-358. Show cause hearing.

(a) The city manager may allow any user identified as a source of an unauthorized discharge to the POTW to show cause before the city council why the proposed enforcement action should not be taken. If such a show cause hearing is allowed, at a time and place specified by the city council a hearing shall be held to review the violation, the reasons why the action is to be taken, and the proposed enforcement action. The user may present arguments before the city council, and the city council shall determine whether the proposed enforcement action shall be taken.

(b) The city council may itself conduct the hearing and take the evidence, or may designate any representative to:

(1) Issue the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(c) At any hearing held pursuant to this article, testimony taken shall be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
(Code 1989, § 25-110; Ord. No. 10574, § 4.4, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-359. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the POTW contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in the county circuit court.
(Code 1989, § 25-111; Ord. No. 10574, § 4.5, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-360. Appeals.

(a) The city manager shall hear any complaints, protests, or disputes arising out of any provisions of this article, and shall review actions relating to the enforcement of the provisions of this article.

(b) Any person aggrieved by the decision of the city manager may appeal to the city council of the city in the same manner that appeals are made from the decisions of the code enforcement director under provisions of the building code.
(Code 1989, § 25-112; Ord. No. 11280, 1-20-1997; Ord. No. 11496, 5-7-2001)

Sec. 40-361. Basic sewer use charges.

(a) Monthly charges for the use and services of the POTW shall be based on the quantity of water used on the premises served, except as otherwise provided in this article, and as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website.

(b) Base sewer user charges will be comprised of two components: a fixed service availability fee and a volume charge based on the amount of water usage.

(1) *Service availability fee.* The service availability fee shall be a monthly charge to all customers. If service is for less than a full month, the service availability fee will be prorated based on number of days of service.

(2) *Volume charge.* The volume charge shall be billed to all sewer customers based on the amount of cubic feet of water consumed at the premises as measured by one or more city water supply meters installed on the premises where the city is the water purveyor. All customers will be charged a minimum monthly volume charge equal to the cost of 200 cubic feet of water usage per month. Sewer customers located outside the corporate limits of the city shall pay 150 percent of the applicable sewer volume charge.

(c) Sewer customers located inside the corporate limits of the city and served by the rural water district shall be billed a monthly flat rate which reflects the average water consumption of all rural water district customers connected to the city sewer during the preceding 12 months. In addition to the applicable volume charge, each of these unmetered city customers will be assessed the monthly service availability fee as outlined in this section. The city may elect to contract with the rural water district for the collection of this fee, but is not required to do so.

(d) Sewer customers located outside the corporate limits of the city shall pay 150 percent of the applicable sewer volume charge for the same customers inside the city limits, regardless of whether the sewer use fee is assessed on a basis of actual water consumption, an annually adjusted flat fee as provided herein, the addition of excess use charges as provided herein, or other method as so determined. The minimum charge shall be 150 percent of the city customer rate for usage which does not exceed 200 cubic feet of water per month. Effective January 1, 2008, in addition to the applicable volume charge, each of these city sewer customers will be assessed the monthly service availability fee as outlined in this section.
(Code 1989, § 25-113; Ord. No. 10574, § 6.1, 6-20-1983; Ord. No. 10722, § 1, 6-16-1986; Ord. No. 10768, § 1, 4-20-1987; Ord. No. 10872, 5-19-1989; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11260, § 1, 8-19-1996; Ord. No. 11291, § 1, 5-19-1997; Ord. No. 11310, § 1, 10-6-1997; Ord. No. 11496, 5-7-2001; Ord. No. 11609, § 2, 3-17-2003; Ord. No. 11814, § 2, 11-20-2007; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 11901, § 1, 12-21-2009; Ord. No. 11944, § 1, 12-20-2010; Ord. No. 11987, § 1, 12-29-2011; Ord. No. 12095,

§ 1, 1-6-2014; Ord. No. 12131, § 1, 10-20-2014; Ord. No. 12176, § 1, 10-19-2015; Ord. No. 12227, § 8, 1-9-2017)

Sec. 40-362. Excess sewer use charges.

(a) In order that the rates and charges may be justly and equitably adjusted to the service rendered, the city shall have the right to base its charges, in addition to the regular sewer charge, not only on volume but also on the strength and character of the sewage and wastes which it is required to treat and dispose. The city shall have the right to measure and determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the POTW in such a manner and by such method as it may deem practicable in the light of conditions and attending circumstances of the case, in order to determine the proper charge.

(b) At the option of the city manager, the calculation for excess sewer use charges shall be based upon subsection (b)(1) or (2) of this section and as outlined in section 40-361, depending upon the impact of the excess waste upon the system and the total flow of the industrial customer.

(1) Extra charges shall be made to any user of the sewer system whose waste has a BOD measurement in excess of 300 mg/l and for a suspended solids measurement in excess of 350 mg/l, when such user is allowed to continue such discharge as provided in section 40-388(c).

(2) Extra charges shall be made to any user of the sewer system whose waste has a BOD measurement in excess of 1,200 pounds per 24-hour period or for a suspended solids measurement in excess of 500 pounds per 24-hour period, when such user is allowed to continue such discharge as provided in section 40-388(c).

(Code 1989, § 25-114; Ord. No. 10574, § 6.2, 6-20-1983; Ord. No. 10641, 12-6-1984; Ord. No. 10906, § 4, 3-19-1990; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11020, § 1, 2-17-1992; Ord. No. 11496, 5-7-2001; Ord. No. 12227, § 8, 1-9-2017)

Sec. 40-363. Fees.

In addition to charges and fees established under the provisions of this article, the city may adopt charges and fees relating to matters covered by this article. These charges and fees may include those listed below, which are separate from all other fees chargeable by the city, and which may be established on a case-by-case basis.

(1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;

(2) Fees for monitoring, inspections and surveillance procedures;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit applications;

(5) Fees for filing appeals;

(6) Fees for consistent removal by the city POTW of pollutants otherwise subject to federal pretreatment standards;

(7) Other fees as the city may deem necessary to carry out the requirements contained herein as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website.

(Code 1989, § 25-115; Ord. No. 10574, § 6.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001; Ord. No. 11848, § 1, 11-17-2008; Ord. No. 12205, § 2, 4-18-2016; Ord. No. 12227, § 8, 1-9-2017)

Secs. 40-364—40-384. Reserved.

DIVISION 2. PUBLIC SEWERS

Sec. 40-385. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or objectionable waste.

(b) It shall be unlawful for any person to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article and an appropriate permit for such discharge has been issued by the city manager and the approval authority (see divisions 3 and 4 of this article).

(c) Except as hereinafter provided, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(d) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owners' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that such public sewer is within 250 feet of the building as measured from the building along/within the public right-of-way being serviced by said sewer main.

(e) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way outside 250 feet of a public sewer shall be required to extend the sewer main.
(Code 1989, § 25-116; Ord. No. 11280, 1-20-1997; Ord. No. 11496, 5-7-2001)

Sec. 40-386. Private wastewater disposal.

(a) Where a public sanitary sewer is not available under the provisions of section 40-385(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article and for which a private wastewater disposal permit has been issued in accordance with section 40-421, and in accordance with state laws regarding private sewage disposal systems.

(b) The type, capacity, location, and layout of a private wastewater disposal system shall comply with all applicable guidelines of the state and the city. No private wastewater disposal system employing subsurface soil absorption facilities will be allowed where the area, in addition to the lot size required by this Code, is less than one acre in size. No septic tank or cesspool shall be permitted to discharge to any natural outlet. Private wastewater disposal systems must obtain the required city and county permits.

(c) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection which complies with this article shall be made to the public sewer within 60 days at owner's expense, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material at owner's expense.

(d) The owner of a private wastewater disposal facility shall operate and maintain such facilities in a sanitary manner at all times, at no expense to the city.

(e) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by state or county health officers.
(Code 1989, § 25-117; Ord. No. 10574, § 2.2, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-387. Building sewers and connections.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city in accordance with divisions 3 and 4 of this article.

(b) All costs and expenses incidental to the installation and connection of the building sewer from the building to the main shall be borne by the owner, regardless of whether a portion of the

connection or lateral may be in, on, or under city property. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer. The building sewer shall not be placed on/across other lots. If the lot that holds the sewer is split, the sewer shall be relocated to the lot that holds the dwelling. The city does not and will not assume any obligation, responsibility, or perform any maintenance of any single connection supplying multiple buildings.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the code enforcement director, to meet all requirements of this article and such use is approved in writing by the code enforcement director.

(e) The size, slope, alignment, and materials of construction of all building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

(f) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(g) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Deviations from the prescribed procedures and materials shall be acceptable only if approved by the code enforcement director before installation.

(h) The applicant for the building sewer permit shall notify the code enforcement director when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the code enforcement director.

(i) All excavations for building sewer installation shall be adequately guarded with barricades, lights, and any other appropriate devices so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(j) Tapping of sewers, specifications. Tapping of the public sewer main is prohibited until the proper permit has been purchased from the office of the code enforcement director. Sewers shall be tapped in an approved manner; at no time shall a private sewer lateral be directly tapped into a manhole. Sewer taps shall be made at an angle to promote the direction of flow of the sewer main being tapped.

(k) Sewer tapping connection to 27 inches, etc.; sewer excavations and backfilling of trenches. Sewer lateral and sewer main excavations shall be in conformity with chapter 32, article III.

(l) All new sewer connections shall have a backflow preventer installed. If existing sewer lines are excavated for repair, a backflow preventer shall be installed prior to placing the line back into service.

(m) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff, groundwater, or stormwater to a building sewer or building

drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such existing or future connections shall be eliminated at the expense of the owner.
(Code 1989, § 25-118; Ord. No. 10574, § 2.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11386, 5-3-1999; Ord. No. 11496, 5-7-2001)

Sec. 40-388. Limitations on use.

(a) No person, firm or corporation shall discharge, or cause to be discharged, any stormwater, groundwater, roof runoff, or subsurface drainage to the POTW except as authorized by a wastewater contribution permit issued by the city in accordance with divisions 3 and 4 of this article.

(b) Stormwater, other than that exempted under subsection (a) of this section, and all other unpolluted drainage, shall be discharged only to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city and other regulatory agencies, if different from the city. Unpolluted industrial cooling water or unpolluted process waters may be discharged to storm sewers or to natural outlets only after written approval of the city manager and the appropriate approval authority, if different from the city.

(c) Except as otherwise provided herein, no waters or wastes may be discharged to the POTW or any sewer of any type or designation having:

(1) A five-day BOD greater than 300 mg/l or 1,200 pounds per 24-hour period;

(2) Containing more than 350 mg/l or 500 pounds per 24-hour period of suspended solids (TSS);

(3) Having an average daily flow greater than two percent of the average daily water consumption of the city.

Such flows shall be subject to the review and permit processes of the city. Where necessary, in the opinion of the city, the owner shall provide such pretreatment as may be necessary to limit pollutants such as BOD and TSS as required in the industrial waste permit of the user, and control the quantities and rates of discharge of such wastes. Plans, specifications and any other pertinent information relating to the proposed pretreatment facilities shall be submitted for the approval of the city, and no construction of such facilities shall be commenced until the approvals are obtained in writing.
(Code 1989, § 25-119; Ord. No. 10574, § 2.4, 6-20-1983; Ord. No. 10906, § 5, 3-19-1990; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11297, § 1, 6-16-1997; Ord. No. 11496, 5-7-2001)

Sec. 40-389. General prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to the POTW without first obtaining a written permit from the city for same:

(1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer

or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissue, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Wastewater containing more than 25 mg/l of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.

(5) Wastewater from industrial plants containing floatable oils, fat or grease.

(6) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. Toxic pollutants include, but are not limited to, those listed in section 307(a) of the Act. In addition to limitations included in any applicable categorical pretreatment standard, the following toxic pollutant concentrations shall not be exceeded:

a. 0.1 mg/l arsenic.

b. 0.1 mg/l cadmium.

c. 0.2 mg/l copper.

d. 0.6 mg/l cyanide.

e. 0.05 mg/l lead.

f. 0.05 mg/l mercury.

g. 1.0 mg/l nickel.

h. 0.05 mg/l silver.

i. 0.25 mg/l total chromium.

j. 0.5 mg/l zinc.

(7) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(8) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(9) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(10) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(11) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the public sewer which exceed 65 degrees centigrade (150 degrees Fahrenheit) and/or with a temperature at the POTW treatment plant which exceeds 40 degrees centigrade (104 degrees Fahrenheit). If, in the opinion of the city

manager, the temperature of a waste can harm either the sewers, wastewater treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance, the city manager may prohibit or condition such discharges to the POTW.

(12) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow from the user during normal operation; except that the city manager may allow slug loads to be discharged at specified times and under specified conditions. Such discharge shall not be allowed unless approved by the city manager.

(13) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city manager in compliance with applicable state or federal regulations.

(14) Any wastewater which causes a hazard to human life or creates a public nuisance.

(Code 1989, § 25-120; Ord. No. 10574, § 2.5, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11020, § 3, 2-17-1992; Ord. No. 11496, 5-7-2001)

Sec. 40-390. Control of use.

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics listed in section 40-389, and which in the judgment of the city manager may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life, limb, or public property, or constitute a public nuisance, the city manager may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover added cost of handling and treating the wastes

(Code 1989, § 25-121; Ord. No. 10574, § 2.6, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-391. Federal categorical pretreatment standards.

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The public works director shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(Code 1989, § 25-122; Ord. No. 10574, § 2.7, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-392. Modification of federal categorical pretreatment standards.

Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. The term "consistent removal" means reduction in the amount of a pollutant or alteration of nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent, as determined according to the procedures set forth in 40 CFR 403.7 (General Pretreatment Regulations for Existing and New Sources of Pollution). The city may then modify pollutant discharge limits in the federal pretreat-

ment standards if the requirements contained in 40 CFR 403.7 are fulfilled and prior approval is obtained from the approval authority.
(Code 1989, § 25-123; Ord. No. 10574, § 2.8, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-393. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.
(Code 1989, § 25-124; Ord. No. 10574, § 2.8, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-394. City's right of revision.

The city reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 40-349.
(Code 1989, § 25-125; Ord. No. 10574, § 2.10, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-395. Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state, except as specifically approved by the city manager.
(Code 1989, § 25-126; Ord. No. 10574, § 2.11, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-396. Accidental discharges.

(a) Each significant user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be prepared by each significant user and shall be subject to review and approval by the city manager, if the manager so chooses, before construction of the facility. All existing significant users shall complete such a plan by January 1, 1983. No significant user who commences contribution to the POTW after the effective date of the ordinance from which this article is derived shall be permitted to introduce pollutants into the system until approved accidental discharge procedures have been developed by the user. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately verbally notify the POTW of the incident. The notification shall include location and duration of discharge, type of waste, concentration and volume, and corrective actions.

(b) Within five days following an accidental discharge, the user shall submit to the city manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
(Code 1989, § 25-127; Ord. No. 10574, § 2.21, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Secs. 40-397—40-420. Reserved.

DIVISION 3. ADMINISTRATION

Sec. 40-421. Private wastewater disposal permits.

(a) Before commencement of construction of a private wastewater disposal system the owner shall first obtain a written permit signed by the code enforcement director. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the city manager. A permit and inspection fee as listed in the city's fee schedule shall be paid to the city at the time the application is filed.

(b) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the code enforcement director. The code enforcement director shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the code enforcement director when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within two working days following receipt of notice by the code enforcement director.
(Code 1989, § 25-131; Ord. No. 10574, § 3.1, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-422. Building sewer permits.

(a) There shall be two classes of building sewer permits:

(1) For residential and commercial service; and

(2) For service to establishments producing industrial wastes.

In either case, the owner or owner's agent shall make application on a special form furnished by the city.

(b) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the code enforcement director. A permit and inspection fee as listed in the city's fee schedule shall be paid to the city at the time the application is filed.
(Code 1989, § 25-132; Ord. No. 10574, § 3.2, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-423. Compliance data report.

Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the city a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the user, and certified by a qualified professional.
(Code 1989, § 25-133; Ord. No. 10574, § 3.4, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-424. Periodic compliance reports.

(a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the city monitoring reports indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. The reporting frequency and specific content of such reports shall be established for each user by the city manager.

(b) The report required by subsection (a) of this section shall contain, as a minimum, the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the city, of pollutants contained therein which are limited by the applicable pretreatment standards.
(Code 1989, § 25-134; Ord. No. 10574, § 3.4, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-425. Monitoring facilities.

(a) The city manager may, require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility shall be situated on the user's premises, unless otherwise approved by the city manager. The city may, when such location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public area in a location approved by the city manager.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed according to a schedule approved by the code enforcement director and public works director.
(Code 1989, § 25-135; Ord. No. 10574, § 3.5, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-426. Inspection, sampling, and analysis.

(a) Authorized personnel, bearing proper credentials and identification, shall be permitted to enter, without delay, all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to the discharge to the POTW in accordance with the provisions of this article.

(b) While performing the necessary work on private properties referred to in subsection (a) of this section, the authorized personnel shall observe all safety rules applicable to the premises established by the user, and the user shall be held harmless for injury or death to the authorized personnel, and the user shall be indemnified against loss or damage to its property by the authorized personnel and against liability claims and demands for personal injury, or property damage asserted against the user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the user to maintain safe conditions as required in section 40-425(b).

(c) Sampling and analyses to determine compliance with a pretreatment standard shall be performed in accordance with procedures established by the public works director pursuant to section 304(g) of the Act and contained in 40 CFR 136, and amendments thereto. Where 40 CFR 136 does not include a sampling or analytical technique or sampling frequency for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April, 1977, and amendments thereto, or with any other sampling or analytical procedures approved by the public works director.

(d) Analysis to determine characteristics of wastes other than those addressed by this section shall be in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association et al., or other procedures approved by the public works director. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the city manager.
(Code 1989, § 25-136; Ord. No. 10574, § 3.6, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-427. Pretreatment facilities.

Users shall provide necessary wastewater treatment or flow equalization as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city manager shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city manager for review, and shall be acceptable to the city manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city manager under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city manager prior to the user's initiation of the changes.
(Code 1989, § 25-137; Ord. No. 10574, § 3.7.1, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-428. Provision of interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the code enforcement director, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in section 40-389, or any flammable wastes, sand, or other harmful materials; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the code enforcement director, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, means, and locations of disposal which are subject to review by the code enforcement director. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms. Means and locations of disposal of collected materials shall be in accordance with all applicable state and local requirements, and are subject to review and approval by the code enforcement director. An effort shall be made by the city to visit restaurants or other businesses that have grease interceptors to inspect the interceptor devices and provide education to the owners in regard to their use and maintenance.
(Code 1989, § 25-138; Ord. No. 10574, § 3.7.2, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-429. Notice of noncompliance.

The public works director shall annually publish in the local newspaper having the largest daily circulation a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.
(Code 1989, § 25-139; Ord. No. 10574, § 3.7.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-430. Compliance records.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.
(Code 1989, § 25-140; Ord. No. 10574, § 3.7.4, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-431. Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and demonstrates to the satisfaction of the public works director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report and/or the user. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the public works director as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user, during which time the user may present additional evidence to the public works director to show why such transmittal may reasonably be expected to give undue advantage to competitors.
(Code 1989, § 25-141; Ord. No. 10574, § 3.8, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Secs. 40-432—40-460. Reserved.

DIVISION 4. WASTEWATER CONTRIBUTION PERMIT

Sec. 40-461. Required.

All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater contribution permit before connecting to or contributing to the POTW.
(Code 1989, § 25-151; Ord. No. 10574, § 3.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-462. Application.

(a) Users required to obtain a wastewater contribution permit shall complete and file with the public works director an application in the form prescribed by the public works director. Proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the information listed in this section unless otherwise specified by the public works director. The public works director will evaluate the data furnished by the user and may require the user to provide additional information. After evaluation and acceptance of the data furnished, the public works director may issue a wastewater contribution permit subject to terms and conditions provided herein. A permit and evaluation fee as set forth in sections 40-361 through 40-363 shall be paid to the city at the time the application is filed.

(b) The following information shall be provided to support a permit application, unless otherwise specified by the public works director:

(1) Name, address, and location (if different from address);

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(3) Wastewater constituents and characteristics, including, but not limited to, those listed in division 2 of this article as determined by a reliable analytical laboratory; sampling and analysis shall be performed as specified in sections 40-423 and 40-424;

(4) Time and duration of contribution;

(5) Average daily and 60-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

(7) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;

(8) Where known, the nature and concentration of any pollutants in the discharge

which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

b. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established;

c. The city manager may require modification of the schedule if, it will not adequately achieve the purposes of this article;

(10) Each product produced by type, amount, processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) A plan for disposal of all residues resulting from pretreatment or O&M, if such residues are produced, which shall comply with all applicable city, county, state, and federal codes and regulations;

(14) Any other information as may be deemed by the public works director to be necessary to evaluate the permit application.

(Code 1989, § 25-152; Ord. No. 10574, § 3.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-463. Modifications.

Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permits of users subject to such standards shall be revised to require compliance with such standard within the timeframe prescribed by such standard. Any user, subject to a national categorical pretreatment standard, who has not previously submitted an application for a wastewater contribution permit as required by section 40-461, shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, any user with an existing wastewater contribution permit shall submit to the city manager within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by section 40-462(b)(8) and (9).

(Code 1989, § 25-153; Ord. No. 10574, § 3.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-464. Conditions.

Wastewater contribution permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW;

(2) Limits on the average and maximum wastewater constituents and characteristics;

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(4) Requirements for installation and maintenance of inspection and sampling facilities;

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(6) Compliance schedules;

(7) Requirements for submission of technical reports or discharge reports;

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(9) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(10) Requirements for notification of slug discharges;

(11) Other conditions as deemed appropriate by the city manager to ensure compliance with this article.

(Code 1989, § 25-154; Ord. No. 10574, § 3.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-465. Duration.

Permits shall be issued under the provisions of this division for a specified time period, not to exceed five years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in division 2 of this article are modified or other just cause exists. The user shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Code 1989, § 25-155; Ord. No. 10574, § 3.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Sec. 40-466. Transfer.

A wastewater contribution permit is issued to a specific user for a specific operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the public works director. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Code 1989, § 25-156; Ord. No. 10574, § 3.3, 6-20-1983; Ord. No. 10911, § 1, 4-2-1990; Ord. No. 11496, 5-7-2001)

Secs. 40-467—40-485. Reserved.

ARTICLE IV. STORMWATER

Sec. 40-486. Control of stormwater system.

(a) *Purpose/intent.* The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the city and surrounding areas through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This section

establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process. The objectives of this section are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this section.

(b) *Definitions.* The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Authorized enforcement agency means employees or designees of the public works director of the city designated to enforce this section.

Best management practices (BMPs). BMPs can be found in the city's stormwater management program. BMPs include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act means the Federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.

Construction activity means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of five acres or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in subsection (f) of this section.

Illicit connection means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

National pollutant discharge elimination system (NPDES) stormwater discharge permit means a permit issued by EPA or the state department of natural resources, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Storm drainage system means publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(c) *Applicability.* This section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(d) *Responsibility for administration.* The city shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the city manager of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(e) *Ultimate responsibility.* The standards set forth herein and promulgated pursuant to this section are minimum standards; therefore, this section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(f) *Discharge prohibitions.*

(1) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, regulations and laws, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this section: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncom-

mercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

c. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

d. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(2) *Prohibition of illicit connections.*

a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c. A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(g) *Suspension of MS4 access.*

(1) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(2) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency. Illicit discharge cleanup cost will be paid for by the violator.

(h) *Industrial or construction activity discharges.* Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to the allowing of discharges to the MS4.

(i) *Monitoring of discharges.*

(1) *Applicability.* This subsection (i) applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(2) *Access to facilities.*

a. The city shall be permitted to enter, without delay, and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this section. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

b. Facility operators shall allow the city ready access, without delay, to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

c. The city shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

d. The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

e. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f. Unreasonable delays in allowing the city access to a permitted facility is a violation of a stormwater discharge permit and of this section. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this section.

g. If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(j) *Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.* The city will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said

person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(k) *Watercourse protection.* Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(l) *Notification of spills.* Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than 24 hours from the time the discharge was discovered. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Manager, City of Kirksville, 201 S. Franklin Street, Kirksville, Missouri 63501 within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(m) *Enforcement.*

(1) *Notice of violation.* Whenever the city finds that a person or business has violated a prohibition or failed to meet a requirement of this section, the city may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

a. The performance of monitoring, analyses, and reporting;

b. The elimination of illicit connections or discharges;

c. That violating discharges, practices, or operations shall cease and desist;

d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

e. Payment of a fine to cover administrative and remediation costs; and

f. The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(n) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 20 days from the date of the notice of

violation. Hearing on the appeal before the appropriate authority or designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

(o) *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within seven days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(p) *Cost of abatement of the violation.* Within 60 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 20 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this section shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of five percent per annum shall be assessed on the balance beginning on the 30th day following discovery of the violation.

(q) *Injunctive relief.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this section. If a person has violated or continues to violate the provisions of this section, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(r) *Compensatory action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this section, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(s) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(t) *Criminal prosecution.* Any person that has violated or continues to violate this section shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a penalty as provided in section 1-8. The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this section, including sampling and monitoring expenses.

(u) *Remedies not exclusive.* The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Code 1989, § 25-182; Ord. No. 12058, §§ 1—22, 5-6-2013)

Sec. 40-487. Stormwater utility charge.

(a) Effective with the August 2010 billing cycle, there is hereby established a monthly stormwater utility charge to be paid by the occupant or owner for each active water meter located at a service address within the city limits or at a property associated with the service address which is located within the city limits.

The stormwater utility charge is a flat monthly fee, as listed in the city's fee schedule, not subject to proration.

(b) The rates and charges of the stormwater system will be sufficient to enable the city to have in each fiscal year net revenues, excluding any U.S. Treasury Interest Subsidy, not less than 110 percent of the debt service requirements for such fiscal year.
(Code 1989, § 25-183; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-488. Liability for charge.

The owner and occupant of the property associated with service address, subject to the stormwater utility charge, shall be jointly and severally liable for payment of the stormwater utility charge.
(Code 1989, § 25-184; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-489. Billing practices.

(a) *General.* The stormwater utility charge shall be billed by the finance director in accordance with the provisions of this section and with billing and collection procedures as set forth in article II of this chapter. Except as otherwise herein provided, each city utility service customer, or property owner, shall be billed the stormwater utility charge per each active water meter where the customer or property owner has either a city water or sewer connection.

(b) *Multiple-unit buildings.* A stormwater utility charge shall be billed to each utility service customer based on the number of active meters in a multiple-unit structure.
(Code 1989, § 25-185; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-490. Use of stormwater utility charge.

All revenue received from the stormwater utility charge shall be used solely for payment of:

(1) Principal and interest on outstanding bonds issued for the stormwater system as and when the same become due and payable;

(2) Expenses of the stormwater system; and

(3) Reasonable and adequate reserves for the payment of the bonds and the interest thereon and for the protection and benefit of the stormwater system.

(Code 1989, § 25-186; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-491. Stormwater development charge.

The building code regulations, as defined and established under chapter 10, shall be pertinent to this article.
(Code 1989, § 25-187; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-492. Imposition of stormwater development charge.

Every person or entity issued a building permit for new construction shall pay a stormwater development charge in accordance with the following:

(1) Single-family and duplex houses:

a. Assessed per square foot of covered ground;

b. Applies whether replacing a building or completely new construction;

c. Does not include driveways;

d. A two-story home shall be charged the same fee as a one-story home;

e. New accessory buildings or additions to the house or other structures shall be required to pay the fee;

f. Concrete drives to an accessory building or garage, concrete patios, concrete basketball pads, etc., shall not be charged the fee if the property is a single-family or duplex house.

(2) All other residential, commercial, or industrial construction:

a. Assessed per square foot of covered ground;

b. Applies whether replacing a building or completely new construction;

c. Multiple stories does not count for additional square footage;

d. Parking lots are included in the square footage calculation;

e. Sidewalks and other concrete or asphalt areas with impervious surfaces shall pay the fee based on square footage;

f. An addition to a building that is constructed over an area that is already hard surface, such as an existing parking lot, shall not be charged the fee since no additional runoff would occur.

(3) The provisions of this section shall not apply to constructed public rights-of-way and public facilities constructed by or dedicated to the city, including the following:

a. New residential streets, boulevards, or alleys;

b. Existing streets, boulevards, or alleys;

c. New sidewalks, bike lanes, or walking paths;

d. New or improvements to existing public parking lots;

e. New or improvements to existing public park facilities;

f. New or improvements to public facilities.

(Code 1989, § 25-188; Ord. No. 11928, § 1, 7-19-2010)

Sec. 40-493. Time of payment.

The stormwater development charge shall be paid at the time the building permit is issued. The stormwater development charge shall be required of all persons or entities even if the building permit charge is waived.
(Code 1989, § 25-189; Ord. No. 11928, § 1, 7-19-2010)

Secs. 40-494—40-524. Reserved.

ARTICLE V. GAS

Sec. 40-525. Plumber's license required.

No person shall engage in or work at the installation, extension, alteration or repair of any gas appliance or piping pertaining to or in connection with gas service on a consumer's premises within the city unless such person has first procured a license as a plumber.
(Code 1974, § 11-4; Code 1989, § 12-1)

Sec. 40-526. Transferability, suspension or revocation of gas fitters' or plumbers' licenses.

No person shall lend a gas fitter's license or plumber's license, as the case may be, to any other person, nor shall any such licensed person apply for a permit for use of any other person. Any such licensed person so doing or refusing to comply with any other requirements of this article shall have a gas fitter's license or plumber's license, as the case may be, suspended or revoked by the officials of the city.
(Code 1974, § 11-5; Code 1989, § 12-2)

Sec. 40-527. Inspection fee.

The fee for inspection of a consumer's piping shall be shall be included in the gas permit, except for new construction. This fee includes inspection of the house piping and appliances.
(Code 1974, § 11-7; Code 1989, § 12-3; Res. of 6-30-1980)

Sec. 40-528. Discontinuance or refusal of connection by gas company; extension of gas company mains, etc.

(a) Gas companies are hereby authorized to discontinue or refuse to supply gas for any gas piping or gas appliance which may appear to be defective, leaking or otherwise considered to endanger life or property, provided that the gas company shall immediately give notice of discontinuance to the gas inspector and the occupant of the building or premises where such gas supply is discontinued or refused.

(b) In all cases where the supplying of gas has been discontinued for safety reasons, the supplying of gas shall not be resumed until authorized by the inspector.

(c) Gas companies shall not be required to secure permits to extend gas mains, gas service pipes or set meters or for any other utilization functions.
(Code 1974, § 11-10; Code 1989, § 12-4)

Sec. 40-529. Installation of meters.

A meter location shall be provided for the building or premises to be served, and the location shall be such that the meter connections are easily accessible, in order that the meter may be read or changed. No gas meter shall be installed under a stoop, stairway, show window or porch or near a furnace, boiler or other heating appliance. No meter shall be placed in any other location where it will be inaccessible or liable to injury. Location, dimensions and type of installation shall be designated by the gas company.
(Code 1974, § 11-13; Code 1989, § 12-5)

Sec. 40-530. Acts to create illegal flow of gas.

It shall be unlawful to turn on valves, break seals on meter cocks or do any other act the purpose of which is to cause or attempt to cause a resumption of the flow of gas through or in pipes which have been stopped or shut off by the utility supplying the same. The existence of any bypass pipe or any other device on or about the pipes or equipment, installed or legally used by the utility in furnishing gas to a consumer, or evidence of damage to meters, valves, seals or other appurtenances preventing or interfering with the proper use of such equipment for registering or measuring gas consumed, shall constitute prima facie evidence of knowledge of the existence thereof on the part of the person having custody or control of the premises where such devices are located. The effect of such devices on persons who unlawfully take or steal gas from the equipment installed by or used by the utility furnishing or making gas available to consumers shall bring such persons prima facie within the scope, meaning and penalties of this article.
(Code 1974, § 11-17; Code 1989, § 12-6)

Sec. 40-531. Liability of city for damages, defects, etc.

This article shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by a defect in any gas piping or appliance mentioned in this article or by the installation thereof, nor shall the gas inspector of the city or any official or employee of such inspector be held as assuming any such liability or responsibility by reason of the inspection authorized under this article or by the certificate of approval issued by the gas inspector.
(Code 1974, § 11-18; Code 1989, § 12-7)

Chapter 41

RESERVED

Chapter 42

VEHICLES FOR HIRE

Article I. In General

Article II. Business License

ARTICLE I. IN GENERAL

Sec. 42-1. Definitions.

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

Taxicab means a motor vehicle of not more than five-passenger capacity, not including the driver, used in the transportation of persons or property, or both, for hire between points within this city or between points within this city, on the one hand, and points outside of this city, on the other hand, but not operated on a regular route or between fixed termini, for which transportation the operator of a taxicab charges a fare or a consideration.

Taxicab business means the business of transporting persons and their property by taxicab.

Taxicab driver means the operator of a taxicab.

Transportation network company or *TNC* means a corporation, partnership, sole proprietor, or other entity that is licensed pursuant to RSMo 387.400 to 387.440 and operating in the state that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC shall not be deemed to own, control, direct, operate, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.

Transportation network company driver or *TNC driver* means an individual who receives connections to potential riders from a transportation network company in exchange for payment of a fee to the TNC; and uses a TNC vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a TNC in return for compensation.

Transportation network company vehicle or *TNC vehicle* means a vehicle that is used by a transportation network company driver and is not owned, leased, or otherwise authorized for use by the TNC driver and not a taxicab, limousine, or for-hire vehicle.

Vehicle for hire for transportation of passenger means any vehicle other than a taxicab used in the transportation of persons from one point to another for which the operator directly or indirectly receives compensation or other personal gain; specifically to include limousines and/or busses used to transport persons other than to a local school.

(Code 1989, § 24-16; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-2. Appearance and condition of taxicabs and vehicles for hire.

All taxicabs and vehicles for hire shall be kept in a mechanically safe operating condition, complying with all of the safety requirements of this Code and other ordinances of the city and the statutes of the state. All taxicabs and vehicles for hire shall be properly identified as a taxicab or vehicle for hire by appropriate signs painted or attached on each side or to the roof of the cab or vehicles for hire. No business license shall be issued to operate any taxicab or vehicle for hire upon the public streets of the city unless the sign required to be placed upon the doors or roof thereof shall be distinctly different from that of the licensed taxicabs or vehicles for hire of any other owner or operator, so that the ownership and identity may be readily ascertained.

(Code 1989, § 24-17; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-3. Inspections of taxicabs and vehicles for hire generally.

All cabs and vehicles for hire shall be safety inspected as required by state statute and shall show proof of passage of inspection prior to issuance of city business license.

(Code 1989, § 24-18; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-4. Minimum number of taxicabs.

Each taxicab business is required to maintain a minimum of two vehicles as taxicabs. All vehicles must be fully licensed by the state and the owner of the taxicab business must maintain

current insurance on both vehicles as required elsewhere in this chapter. Vehicles for hire companies may operate any number of vehicles.
(Code 1989, § 24-19; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-5. Located in commercial zone.

Each taxicab or vehicle for hire business that maintains more than two vehicles must be located within a commercial zone in the city.
(Code 1989, § 24-20; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-6. Alcoholic beverages.

No driver shall pick up and deliver an intoxicating alcoholic beverage to or for any person under the age of 21 years. Nor shall any driver pick up or deliver any intoxicating beverage at any time or place that sales of such items are otherwise prohibited by law or ordinance. No such item shall be picked up or delivered unless or until the item is sealed and packaged and the name of the seller, the date and time of the sale is written on or included with said package by the seller.
(Code 1989, § 24-21; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-7. Consumption of alcohol.

It shall be unlawful for any driver to consume alcoholic beverages of any kind while operating the taxicab or vehicle for hire.
(Code 1989, § 24-22; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-8. Rate card to be displayed.

Each and every taxicab operated on the streets of the city shall have affixed thereto at a location in plain view of any passenger therein, a placard setting out the rates for taxicab services, and such rates shall be so shown thereon as to be readily visible to and readable by any occupant of such taxicab.
(Code 1989, § 24-23; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-9. Photo identification to be displayed while on duty.

Every taxicab and vehicle for hire driver shall, at all times while operating a taxicab or vehicle for hire upon the streets of the city, display in such vehicle a driver's photo identification. Such identification shall contain thereon the name, age, sex, business address, and business phone number of such driver. The identification shall be such that it is readily visible to and readable by any occupant of such taxicab.
(Code 1989, § 24-24; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-10. Minors not to drive.

No person under 18 years of age shall drive any taxicab or vehicle for hire.
(Code 1989, § 24-25; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-11. Exemptions.

Per RSMo 387.430, no municipality or other local or state entity may impose a tax on, or require a license for, a TNC, a TNC driver, or a vehicle used by a TNC driver where such tax or license relates to providing prearranged rides, or subject a TNC to municipal or other local rates, entry, operation or other requirements.

Secs. 42-12—42-40. Reserved.

ARTICLE II. BUSINESS LICENSE

Sec. 42-41. Required; application.

Any person desiring to engage in the operation of a taxicab or vehicle for hire business must complete a business license application with the finance department. Prior to engaging in actual business, the applicant must be approved and issued a business license.
(Code 1989, § 24-36; Ord. No. 11408, § 2, 9-20-1999)

Sec. 42-42. Insurance requirements and endorsement.

(a) *General.* Every holder of a business license to conduct the operation of a taxicab or vehicle for hire business within this city shall at all

times maintain and carry for each taxicab or vehicle licensed to be operated a policy of liability insurance in accordance with Missouri's Motor Vehicle Financial Responsibility Law.

(b) *Certificate.* A certificate evidencing insurance coverage as above shall be provided by the licensee to the city. The city shall be named an additional insured for all coverages except the worker's compensation coverage, and an endorsement of same shall be submitted with a certificate. It shall be the licensee's responsibility to keep the insurance coverage in full force and effect during the term of the contract. Such certificate shall provide that 30 days' advance written notice shall be given to the city in the event of any change in, or cancellation of, such insurance. (Code 1989, § 24-38; Ord. No. 11408, § 2, 9-20-1999; Ord. No. 11430, § 1, 2-7-2000; Ord. No. 11644, §§ 1, 2, 12-1-2003)

Sec. 42-43. Revocation.

Upon notice and hearing, the city council may revoke a license issued under the provisions of this article for any of the following reasons:

(1) Failure to conduct the taxicab business for a period of 30 days or longer.

(2) Violation of this article or statutes of the state.

(3) Employment of unlicensed drivers.

(4) Operation of business without such insurance on file as is prescribed by this article.

(5) Aiding, abetting or assisting the promotion or advancement of any illegal or immoral activity, affair or business.

(6) Falsifying or omitting information on any application required by this article.

(Code 1989, § 24-40; Ord. No. 11408, § 2, 9-20-1999)

Chapter 43

RESERVED

Chapter 44

ZONING

Article I. In General

Article II. Board of Adjustment

Article III. Off-Street Parking and Loading

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Article VII. District RP-5, Planned Mobile Home Park District

Division 1. Generally

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Article XII. Signs

ARTICLE I. IN GENERAL

Sec. 44-1. Definitions.

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

Accessory building or *use* means a subordinate building having a use secondary to any location on the lot occupied by the main building, or any use secondary to the main use of the property. A building housing an accessory use is considered an integral part of the main use with respect to setbacks for the back or side lines of properties otherwise abutting on a street.

Adult entertainment means any live exhibition, performance, display or dance of any type, conducted in an adult entertainment business, including, but not limited to, posing or serving food or beverages or soliciting for the sale of food, beverages or entertainment or pantomiming or modeling or removal of clothing on an adult entertainment business premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons or members, and such exhibition, performance, display or dance is characterized by emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons or members.

Adult entertainment business means any enterprise to which the public, patrons or members are invited or admitted, and where providing adult entertainment, as defined herein, is a portion of its business.

Adult motel means an enterprise where a regular and substantial business purpose is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motion pictures, videocassettes, DVDs, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and rents room accommodations for less than six hours at a time.

Adult motion picture theater means an establishment containing a room with seats facing a screen or projection area, where a regular and substantial business purpose is the exhibition to customers of films, videotapes, DVDs or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Bathhouse means an enterprise where a regular and substantial business purpose is offering baths with other persons present who are nude or displaying specified anatomical areas.

Body painting studio means an establishment where a regular and substantial business purpose is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customer's view specified anatomical areas.

Apartment means a room or suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single housekeeping unit.

Apartment hotel means an apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Apartment house means a building or portion thereof designed, used or intended to be used as a residence for three or more families, living in separate apartments.

Average block setback means the average front setback for structures located on the same side of the street and within one block.

Basement means a story below the first story, as defined under the term "story," counted as a

story for height regulations if subdivided and used for dwelling purposes, other than by a janitor or watchman employed on the premises.

Bed and breakfast means an owner-occupied short-term lodging facility that houses at least one lodging room, which may provide meals and lodging for compensation on a daily basis for no more than 31 days (see article IX of this chapter).

Block means an area of land entirely bounded by streets, highways, barriers, or right-of-way (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or right-of-way) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

Boardinghouse or *lodginghouse* means a dwelling occupied as a single housekeeping unit, where lodging or meals are provided for three or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

Building means a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels.

Building, attached, means a building having two walls in common with other buildings except that end buildings may have only one wall in common.

Building, detached, means a building having no walls in common with other buildings.

Building line, front, means a line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot.

Building, main or primary, means the building in which is conducted the main or primary use of the lot on which it is located.

Codes and planning director shall have the same meaning as code enforcement director, zoning administrator, building official, floodplain manager, and plat official.

Communal houses, nonresidential, means any building or structure owned or occupied by persons having a common association which is not used for residential lodging purposes, and which is used primarily for assembly purposes (e.g., recreational or social). Nonresidential communal houses shall be considered as assembly halls.

Communal houses, residential A, means a dwelling occupied as a single housekeeping unit, where residential lodging is provided for five or more persons not related by blood or marriage, with rooms or spaces which are available for use as common areas for assembly purposes (e.g., recreational or social) that are not greater than 40 percent, cumulatively, of the gross floor area of said dwelling.

Communal houses, residential B, means a dwelling occupied as a single housekeeping unit, where residential lodging is provided for five or more persons not related by blood or marriage, with rooms or spaces which are available for use as common areas for assembly purposes (e.g., recreational or social) that are greater than 40 percent, cumulatively, of the gross floor area of said dwelling.

Court means an open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by, but is not totally enclosed by, the walls of such buildings.

Day care means a state department of health and senior services licensed, regulated, or child care subsidized facility where care is provided for children by a child care provider for any part of the 24-hour day.

Driveway means an area intended for the operation of private automobiles and other vehicles from a lot line to a garage, approved parking area, building entrance, structure or approved use located on the property.

Driveway approach means an area intended for the operation of private automobiles and other vehicles giving access between a street and/or alley edge and abutting a lot line.

Dwelling means a building or portion thereof designed exclusively for residential occupancy, including single-family, two-family and multiple-

family dwellings, boardinghouses and lodging-houses, apartment houses and apartment hotels, but not hotels.

Dwelling, multifamily, means a building or portion thereof arranged, intended or designed for occupancy by three or more families, including apartment houses, row houses, tenements and apartment hotels.

Dwelling, single-family.

(1) The term "single-family dwelling" means a detached building, other than a mobile home, arranged, intended, or designed for occupancy by one family and where lodging or meals may be provided for not more than two persons for compensation.

(2) The term "single-family dwelling" also includes any home in which eight or fewer unrelated mentally or physically handicapped persons reside, together with two additional persons acting as house parents or guardians who need not be related to each other or to any of the persons residing in the home.

(3) The term "single-family dwelling" also includes any private residence licensed by the division of family services or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption.

Dwelling, two-family, means a building arranged, intended or designed for occupancy by two families.

Dwelling unit means one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner-occupancy or rental or lease on a weekly, monthly or longer basis, physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

Family means one or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with kitchen facilities, or a group of not more than four persons (excluding servants) living together, by joint agreement, and occupying a single housekeeping unit with single kitchen facilities on a nonprofit, cost-sharing basis.

Foundation, permanent, means foundation walls that are considered permanent in nature and meet the criteria of the current building code adopted by the city. In the case of manufactured homes, in addition to load bearing interior piers, permanent foundation shall also include any abutting perimeter masonry or concrete walls.

Garage, private, means an accessory building primarily for the storage of motor vehicles.

Garage, public, means a building or portion thereof designed or used for the storage, sale, hiring, care or repair of motor vehicles and which is operated for commercial purposes.

Garage, storage, means a building or portion thereof providing storage for motor vehicles with facilities for washing, but no other services.

Gross floor area. Gross floor area shall be considered as the floor area within the perimeter of the outside walls of the building under consideration without deduction for hallways, stairs, closets, thickness of walls, columns, or any other features.

Heights of buildings means the vertical distance measured from the highest of the following three levels:

(1) From the street curb level;

(2) From the established or mean street grade in case the curb has not been constructed;

(3) From the average finished ground level adjoining the building if it sets back from the street line to the level of the highest point of the roof beams of flat roofs or roofs inclining not more than one inch to the foot or to the mean height level of the top of the main plates and highest ridge for other roofs.

Historic district means an area designated as all lots being zoned "H, Historic" by ordinance of the city council which may include individual landmarks, as well as other properties or

structures which, while not of such historic and or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics and historical significance of the historic district.

Hotel means a building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged with or without meals, and in which there are more than 12 sleeping rooms, and no provisions for cooking in individual rooms.

Landmark means a property or structure designated as a landmark by ordinance of the city council, pursuant to procedures prescribed in chapter 2, article IX, which is worthy of rehabilitation, restoration, interpretation and preservation because of its historic, architectural or archaeological significance to the city, and zoned appropriately as an "H, Historic" overlay property.

Lot means a parcel of land of, at least, sufficient size to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other spaces as are required in this chapter. Such lot shall have frontage on an improved public street or on an approved private street and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) A combination of complete lots of record and portions of lots of record or of portions of lots of record;

(4) A parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

Lot, corner, means a lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the zoning administrator.

Lot depth means the mean horizontal distance from the front street line to the rear line.

Lot, interior, means a lot whose side lines do not abut upon any street.

Lot line, exterior side, means a side boundary line which abuts upon a public right-of-way containing a street.

Lot line, front, means the boundary between a lot and the street on which it fronts.

Lot line, interior side, means a side boundary line which abuts upon private property and does not abut upon a public right-of-way containing a street.

Lot line, rear, means the boundary line which is opposite and most distant from the front street line, except that in the case of uncertainty, the zoning administrator shall determine the rear line.

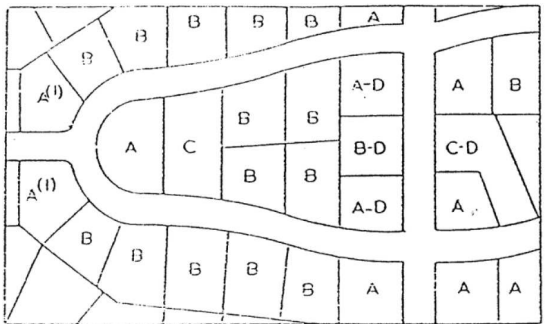
Lot lines means the lines bounding a lot as defined herein.

Lot line, side, means any lot boundary line not a front or rear line thereof. A side lot line may be a party lot line, a line bordering on an alley or place or a side street line.

Lot of record means a lot which is part of a subdivision recorded in the office of the county recorder; or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot, through, means an interior lot having frontage on two streets.

Lot types. The diagram which follows illustrates terminology used in this chapter with reference to corner lots:



In the diagram:

A = Corner lot. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A(1) in the diagram.

B = Interior lot.

C = Through lot. Through lots abutting two streets may be referred to as double frontage lots.

D = Reversed frontage lot; defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

Lot width means the mean horizontal distance between side lines, measured at right angles to the depth.

Manufactured housing, double-wide.

(1) The term "double-wide manufactured housing" means the same as the term "mobile home, double-wide," except that double-wide manufactured housing:

a. Must be a minimum of 26 feet wide and transported in more than one single unit as a finished dwelling unit;

b. May be located in any R-2-S, R-3-S, R-4-S zone or planned unit development (PUD) if:

1. Placed on a permanent foundation. Foundations shall meet the most current adopted building code of the city.

2. Location on the site meets all standard zoning requirements contained in this chapter.

(2) In addition, a double-wide manufactured home shall be subject to the following:

a. The home must be occupied only as a one-family dwelling or as a two-family dwelling if so designed, and meets proper zoning criteria.

b. Roof must be gable or hip roof of three in 12 (3:12) pitch or greater and covered with material that is residential in appearance. All roof structures shall provide an eaves projection of no less than 12 inches and no greater than 30 inches excluding gutter dimensions.

c. Have proper guttering attached.

d. Have exterior surface and window treatments that, to the maximum extent possible, are architecturally compatible with those of neighboring properties.

e. Have the tongue and running gear including axles removed.

f. Maintain a minimum of 18 inches of crawl space under the entire structure.

g. Have permanent steps set at all exits.

h. Must be serviced by and connected to city utilities.

i. Property owner shall declare the manufactured or modular home as real property and must so record said property with the county assessor.

Manufactured housing, modular, means a dwelling that meets local and federal building code regulations.

Marijuana or *marihuana* means Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as seed thereof and resin extracted from the plan and marijuana-infused products. The term "marijuana" does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

Marijuana-infused products means products that are infused with marijuana or an extract

thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

Medical marijuana cultivation facility means a facility licensed by the state to acquire, cultivate, process, store, transport, and sell marijuana to a medical dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

Medical marijuana dispensary facility means a facility licensed by the state to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused projects manufacturing facility.

Medical marijuana-infused products manufacturing facility means a facility licensed by the state to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana test facility, or to another medical marijuana-infused projects manufacturing facility.

Medical marijuana testing facility means a facility certified by the state to acquire, test, certify, and transport marijuana.

Mixed-use means a building, structure, or development containing more than one land use.

Mobile home means a single-family dwelling unit that has the following characteristics:

(1) Designed for long-term occupancy containing sleeping accommodations, a flush toilet, tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems;

(2) Designed to be transported after fabrication and remain on its own wheels, flatbed, frame or detachable wheels;

(3) Arrives at the site where it is to be occupied as a dwelling unit ready for occupancy, except for minor and incidental unpacking and assembly operations, location on foundation support as approved by manufacturer's design, connection to utilities and the like;

(4) Less than 26 feet wide as a finished dwelling unit;

(5) A mobile home must be located in a mobile home park.

Mobile home park means a plot of ground upon which two or more mobile homes, occupied for sleeping or dwelling purposes, are located, regardless of whether or not a charge is made for such accommodations.

Mobile home, double-wide. See *Manufactured housing, double-wide.*

Motel means a building or a group of buildings, whether detached, semidetached or attached, providing lodging for primarily transient automobile travelers. A motel may contain restaurants and other accessory services for serving its residents as well as the public.

Nonconforming use, building or yard, means a use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. A nonconforming use, building or yard shall be a legal nonconforming use if it is legally established prior to the passage of this chapter, and it shall be an illegal nonconforming use if it is established after the passage of this chapter and not otherwise approved as provided in this chapter.

Parking. See article III of this chapter.

Parking space. For off-street parking computations, a parking space shall have minimum dimensions of nine feet by 18 feet for both commercial and residential usage.

Place means an open, unoccupied space, other than a street or alley, permanently established or dedicated as the principal means of access to property abutting thereon.

Planned unit development (PUD) means a zoning method which permits a variety of uses in a development. The PUD is permitted in any zoning class except M-2, Heavy Industrial. PUDs

shall require a development plan and follow the procedures for rezoning found in section 44-12. Example: (PUD) A single-family neighborhood with a car wash, fuel station and convenience store in the proposal.

Planned zoning district means the zoning designation of a lot or tract which permits development as is specifically depicted on plans approved in the process of rezoning that lot or tract.

Right-of-way, undeveloped public, means the space of land located between the back of the curb or street edge to the edge of the sidewalk or the property line that extends parallel to the street. The term "undeveloped public right-of-way" is also referred to as unimproved right-of-way.

Sea-going container, also known as sea container, sea cargo container, or sea storage container, means a rectangular metal container primarily used on ocean-going ships that contain freight or goods and provides protection from the elements; has a large door at one end of the container; many times has advertising on the sides with the company name of the original owner.

Sex offender means any individual who has been sentenced for committing a sexual offense, has a past conviction for an offense involving sexually deviant behavior, has displayed sexually deviant behavior in the commission of any offense, or has admitted to committing sexually deviant behavior.

Special use permit.

(1) The term "special use permit" means an act of granting permission to use land in a manner not permitted in a given zoning district. The process of granting a special use permit requires a public hearing before the planning and zoning commission and approval of a special use permit ordinance by the city council setting forth the terms and conditions of said special use.

(2) The granting of a special use permit should be conditional to the findings that there will be no substantial injury to the value of other property in the neighborhood in which it is to be located, public conveniences will be served by the proposed special use, and that the proposed special use is compatible with surrounding permitted uses. The granting of a special use permit may be subject to certain conditions reasonably necessary to meet such standards. Examples of standards could be site buffering or screening, landscaping, setting hours of operation, restriction of merchandise sold, building setbacks, noise level management, stormwater management, advertising signage limits, building exterior standards, number of employees, etc.

Specified anatomical area means:

(1) Human male or female genitals or pubic area with less than a fully opaque covering;

(2) Human buttocks including any portion of the anal cleft or cleavage of the male or female buttocks with less than a fully opaque covering;

(3) The female breast below a point immediately above the top of the areola encircling the nipple with less than a fully opaque covering, or any combination of the foregoing; or

(4) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activities means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent object in an act of apparent sexual stimulation or gratification.

Stable, private, means an accessory building for the keeping of horses, ponies, mules or cows, owned by occupants of the premises and not kept for remuneration, hire or sale.

Stable, public, means a stable other than a private or riding stable as defined herein.

Stable, riding, means a structure in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded or kept for hire, including a riding track.

Story means that part of a building included between the surface of one floor and the surface of the floor next above or, if there is no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half-story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four feet above the curb level, established or mean street grade or average ground level, as mentioned in the definition of the term "height of buildings."

Street means a thoroughfare which affords the principal means of access to property abutting thereon.

Street line means the dividing line between the street and the abutting property.

Structural alteration means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including, but not limited to, advertising signs, billboards and poster panels, but exclusive of customary fences or boundary or retaining walls. The term "structure" includes the term "building."

Swimming pool means a permanent structure containing a body of water intended for recreational uses, including wading pools.

Tandem parking means a parking space that is only accessed by passing through another parking space from a street, driveway, or alley.

Tavern, saloon, bar or *lounge* means a building where alcoholic beverages are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

Temporary rental of a residence means the entire rental of a dwelling, which houses at least one lodging room, for a period of no more than 31 days.

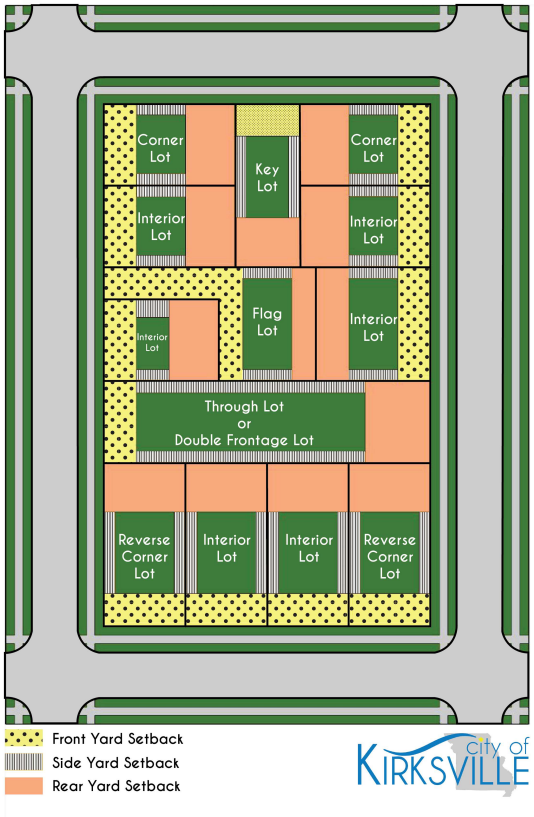
Tourist and trailer camp means a tract or parcel of land where temporary accommodations are provided for two or more travel trailers, campers, trailer coaches or tents open to the public, either free or for a fee.

Travel trailer means a vehicular, portable, structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

Used for includes the meaning "designed for" or "intended for."

Variance means a modification or variation of the provisions of this chapter, as applied to a specific piece of property, as distinct from rezoning.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used. The following diagram shall designate the location and measurements of yards on lots:



The illustration here assumes front yard depths required at 25 feet, side yard width is 15 feet, and rear yard depth is 30 feet.

Yard, exterior side, means a yard between the main building and the exterior side lot line, extending entirely from the front yard to the rear yard thereof.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, interior side, means a yard between the main building and the interior side lot line, extending entirely from the front yard to the rear yard thereof.

Yard, rear, means a yard between the rear lot line and the rear line of the main building and the side lot lines.

(Code 1989, app. A, § 25-1; Ord. No. 10904, 3-19-1990; Ord. No. 11029, § 1, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11440, §§ 1, 2, 3-20-2000; Ord. No. 11744, § 1, 2-6-2006; Ord. No. 11813, 11-6-2007; Ord. No. 11858, 2-23-2009; Ord. No. 11996, § 1, 3-19-2012; Ord. No. 12157, § 1, 4-20-2015; Ord. No. 12277, § 1(25-1), 4-16-2018; Ord. No. 12315, § 1(25-1), 3-18-2019)

Sec. 44-2. Compliance with chapter.

(a) No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted in the district in which such building, structure or land is situated.

(b) No building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limit established in this chapter for the district in which such buildings or structures are located.

(c) No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner, except in conformity with the area regulations established in this chapter.

(d) A driveway or walk to provide access to any premises in districts O-1P, C-1, CBD, C-3, M-1 and M-2 shall not be permitted in districts R-1, R-2, R-2-S, R-3, R-3-S, R-4, R-4-S, and RP-5.

(Code 1989, app. A, § 25-2; Ord. No. 11296, 6-16-1997; Ord. No. 12157, § 2, 4-20-2015)

Sec. 44-3. Administration and enforcement generally; recommendations of administrator.

(a) A zoning administrator designated by the city shall administer and enforce this chapter.

(b) The zoning administrator shall notify any person found to be in violation of any provision of this chapter, indicating the nature of the violation and the required action necessary to correct the violation. The zoning administrator shall recommend any or all of the following:

(1) The discontinuance of illegal use of any structure or land;

(2) The removal of any illegal structures or of any addition, change or alteration thereto;

(3) The discontinuance of any illegal work being done;

(4) Other action to ensure compliance with or to prevent violation of its regulations and standards.

When necessary, the zoning administrator, after investigation and recommendation, shall inform the appropriate city officials, who shall, in turn, institute appropriate legal action to restrain, correct or abate such violation.
(Code 1989, app. A, § 25-3; Ord. No. 11296, 6-16-1997)

Sec. 44-4. Building permits, certificates of occupancy and fees.

(a) *Building permits; required, issuance.* No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor, issued by the zoning administrator. No building permit shall be issued by the zoning administrator except in conformity with the provisions of this chapter.

(b) *Building permits; applications.*

(1) All applications for building permits shall be accompanied by:

a. Plans drawn, showing the actual dimensions and shape of the lot to be built upon. This requires a survey, location of property pins, or other definite means of establishing boundaries;

b. The exact sizes and locations on the lot of already existing buildings, if any;

c. The locations and dimensions of the proposed building or alteration;

d. Such other information as lawfully may be required by the zoning administrator, including the following:

1. Existing or proposed building or alteration;

2. Existing or proposed uses of the building and land;

3. The number of families, housekeeping units or rental units the building is designed to accommodate;

4. Conditions existing on the lot;

5. Such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

(2) The zoning administrator shall approve or disapprove submitted plans, returning one copy of the plans to the applicant, delineating approval or disapproval on such copy. The original and one copy of the plans similarly marked shall be retained by the zoning administrator.

(c) *Building permits; expiration.* If the work described in any building permit has not begun within 180 days from the date of issuance thereof, such permit shall expire; it shall be canceled by the zoning administrator, and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, such permit shall expire and be canceled by the zoning administrator and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed until and unless a new building permit has been obtained.

(d) *Approval, variances from approved use, etc.* Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement or construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by section 44-14.

(e) *Fees.* Each application for a building permit shall be accompanied by payment according to the city fee schedule.

(f) *Landmarks or structures within a historic district.* Before a landmark or any building within a historic district can be issued a building, remodeling, or demolition permit, an approved certificate of appropriateness signed by the Kirksville Historic Preservation Commission must be presented to the codes department.
(Code 1989, app. A, § 25-4; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 11858, 2-23-2009)

Sec. 44-5. Districts—Generally enumerated.

(a) For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration or use of buildings, structures or land, the city is hereby divided into 18 districts as follows:

(1) District R-1, Single-Family Residential District;

(2) District R-2, Two-Family Residential District;

(3) District R-2-S, Two-Family Special Residential District;

(4) District R-3, Multifamily Residential District;

(5) District R-3-S, Multifamily Special Residential District;

(6) District R-4, General Residential District;

(7) District R-4-S, General Special Residential District;

(8) District C-1, Local Business District;

(9) District CBD, Central Business District;

(10) District CMD-SQ, Central Mixed District, Square;

(11) District CMD-G, Central Mixed District, General;

(12) District CMD-C, Central Mixed District, Corridor;

(13) District CND-SF, Central Neighborhood District, Single-Family;

(14) District CND-MF, Central Neighborhood District, Multifamily;

(15) District C-3, Extensive Business District;

(16) District M-1, Light Industrial District;

(17) District M-2, Heavy Industrial District;

(18) District H, Historic District.

(b) Planned zoning districts. Each of the districts, except for the CBD, herein set forth shall have a separate and distinct counterpart known and herein referred to as a planned district. A planned district shall be for the purpose of permitting and regulating the uses heretofore permitted in the equivalent district, and further provide for and encourage latitude and flexibility in the location of buildings, structures, roads, drives, variations in yards and open spaces all subsequent to approval of the plan by the planning commission and city council. The purpose is to allow development of tracts of land to their fullest extent and at the same time observe the general intent and spirit of these regulations. Planned districts shall be as follows:

(1) District RP-1, Planned Single-Family Residential District;

(2) District RP-2, Planned Two-Family Residential District;

(3) District RP-2S, Planned Two-Family Special Residential District;

(4) District RP-3, Planned Multifamily District;

(5) District RP-3S, Planned Multifamily Special District;

(6) District RP-4, Planned General Residential District;

(7) District RP-4S, Planned General Special Residential District;

(8) District RP-5, Planned Mobile Home Park District;

(9) District OP-1, Planned Office District;

(10) District CP-1, Planned Local Business District;

(11) District CBDP, Planned Central Business District;

(12) District CP-3, Planned Extensive Business District;

(13) District MP-1, Planned Light Industrial District;

(14) District MP-2, Planned Heavy Industrial District;

(15) PUD, Planned Unit Development.

(Code 1989, app. A, § 25-5; Ord. No. 11296, 6-16-1997; Ord. No. 11858, 2-23-2009)

Sec. 44-6. Districts—Adoption of map; changes, amendments or additions to map.

Boundaries of the districts, as enumerated in section 44-5, are hereby established as shown on a map prepared for that purpose, which map is hereby designated as the "zoning district map." Such map and all the notations, references and information shown thereon are hereby made as much a part of this chapter as if the same were set forth in full herein. It shall be the duty of the city planning and zoning commission to keep on file in the zoning administrator's office an official copy of such map and all changes, amendments or additions thereto. It shall be the duty of the zoning administrator to make such changes, amendments or additions thereto. Changes shall be entered on the official zoning district map promptly after the amendment has been approved by the city council.

(Code 1989, app. A, § 25-6; Ord. No. 11296, 6-16-1997)

Sec. 44-7. Districts—Interpretation of boundaries; classification of annexed territory, vacated streets, etc.

(a) When definite distances in feet are not shown on the zoning district map, the district boundaries are intended to be along existing street, alley or platted lot lines or extensions of such lines. If the exact location of such lines is not clear, it shall be determined by the zoning administrator, due consideration being given to location as indicated by the scale of the zoning district map.

(b) When streets or alleys on the ground differ from the streets or alleys as shown on the zoning district map, the zoning administrator shall apply the district designations on the map to the streets or alleys on the ground in such manner as to conform to the intent and purpose of this chapter.

(c) Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall be automatically extended to the centerline of any such street or alley.

(d) All areas which may hereafter be annexed to the city shall first be tentatively zoned by the city council, following study and recommendations by the planning and zoning commission; such tentative zoning shall take effect upon the effective date of the annexation.

(Code 1989, app. A, § 25-7; Code 1974, § 25-7)

Sec. 44-8. Districts—Planned districts.

(a) *Purpose.* The zoning of land in the city to one of the planned districts (RP-1 through MP-2, inclusive) shall be for the purpose of requiring orderly development on a quality level generally equal to that of the equivalent standard zoning districts, by permitting variations from the normal and established development techniques. The use of planned zoning procedures is intended to encourage innovative and imaginative site planning, conservation of natural resources, minimum waste of land and the maximum protection of property values.

(b) *Conditions and standards.*

(1) A proposal to rezone land to a planned district shall be subject to the same criteria relative to compliance with the comprehensive plan, land use polices, neighborhood compatibility, adequacy of streets and utilities and other elements, as is normal in rezoning deliberations;

(2) The submittal by the developer and the approval of development plans by the planning commission and city council represent a firm commitment by the developer that development will indeed follow the approved plans in concept, intensity of use, aesthetic levels and quantities of open space;

(3) Deviations in yard requirements, setbacks and relationships between buildings are acceptable and may be approved within

the limits set out in this subsection (b), if it is deemed that other amenities or conditions will be gained to the extent that an equal or higher quality of development will result than under standard zoning procedures;

(4) Residential areas will be planned and developed in a manner that will produce more useable open space, better recreational opportunities, safer and more attractive neighborhoods than under standard zoning and development techniques;

(5) Commercial areas will be planned and developed to result in attractive, viable and safe centers and clusters, as opposed to strip patterns, along thoroughfares. Control of vehicular access, architectural quality, landscaping and signs will be exercised to soften the impact on nearby residential neighborhoods and to assure minimum adverse effects on the street system and other services of the community;

(6) The developer will be given latitude in using innovative techniques in the development of land not feasible under application of standard zoning requirements;

(7) Planned zoning shall not be used as a refuge from the requirements of the equivalent district as to intensity of land use, amount of open space or other established development criteria;

(8) No use will be permitted in the planned district that is not clearly permitted in the equivalent district;

(9) Any building or portion thereof may be owned in condominium under appropriate state statutes;

(10) The maximum height of buildings and structures shall be as set out in the equivalent district;

(11) The intensity of land use, the floor area and bulk of buildings, the concentration of population, the percentage of lot coverage, the amount of open space, light and air shall be generally equal to that required in the equivalent zoning district;

(12) The density of residential dwelling units, the parking requirements and the performance standards shall be the same as in the equivalent district;

(13) The permitted uses shall be the same as those permitted in the equivalent district, provided that limitations may be placed on the type of occupancy of certain premises, if such limitation is deemed essential to the health, safety or general welfare of the community;

(14) The planning and zoning commission may, in the process of approving preliminary and final plans, approve deviations from the minimum standards in the equivalent district as follows:

a. Setbacks of buildings and paved areas from a public street may be reduced to 75 percent of the chapter requirement;

b. Setbacks of buildings and paved areas from a property line of the project (other than a street line) may be reduced to 85 percent of the chapter requirement;

c. Side yards between buildings may be reduced to zero;

d. A portion of the parking area required under this chapter may remain unimproved until such time as the city council deems it must be improved to serve the demand adequately.

The foregoing deviations may be granted by the planning and zoning commission only where there is ample evidence that such deviations will not adversely affect neighboring property, and shall not constitute the mere granting of a privilege. Reduction setbacks or other open space shall be compensated by additional open space in other appropriate portions of the project. In all cases such deviations shall be in keeping with good land planning principles, and must be specifically set

out in the minutes of the commission, as well as on plans and other exhibits in the record.

(c) *Planned district rezonings and amendments.*

(1) A tract of land may be rezoned to RP-1 through MP-2, inclusive, only upon application by the owner or agent, and only upon approval of a preliminary development plan. Land which is currently zoned as a planned district with or without an existing plan approved by city council may be amended to allow for new preliminary development plan.

(2) Additional regulations regarding rezonings and amendments, such as public hearings and certified mailings, can be found in section 44-12.

(3) The proponents of a planned district rezoning or amendment shall prepare and submit to the zoning administrator the following:

a. A preliminary development plan showing the property to be included in the proposed development, plus the area within 200 feet thereof.

b. The following items shall be included on the property to be developed:

1. Existing topography with contours at five-foot intervals, provided that where natural slopes are sufficiently flat, the zoning administrator may require contours at lesser intervals. In the case of small tracts of land where grade changes are not critical to the quality of development, the zoning administrator may waive the contour information;

2. Proposed location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, public streets and any existing easements;

3. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan;

4. General extent and character of proposed landscaping.

c. The following items shall be shown on the same drawing within the 200-foot adjacent area:

1. Any public street which is of record;

2. Any drives which exist or which are proposed to the degree that they appear on plans on file with the city, except those serving single-family houses;

3. Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the city. Single- and two-family residential buildings may be shown in approximate location and general size and shape;

4. The location and size of any drainage structures, such as culverts, paved or earthen ditches or storm sewers and inlets.

d. A schedule shall be included indicating total floor area, dwelling units, land area, parking spaces and other quantities relative to the submitted plan in order that compliance with chapter requirements can be determined.

(4) The planning and zoning commission shall hold a public hearing on the rezoning application or plan amendment, including the plan as provided by law. If preliminary plans meet requirements and receive approval of the commission, the same shall be duly approved, properly endorsed and identified and sent on to the council for action.

(5) Prior to issuance of building permits, the final plans for buildings and site improvements shall be submitted to the city code enforcement director, to review with the engineering department, as to compliance with the development plan. The development may proceed in stages and final plans for each stage shall be submitted and approved prior to permit issuance. The final plans, in addition to building construction plans, shall include a landscape and screening plan showing species and size of all plant materials, areas to be seeded, sodded, etc., all to be in keeping with the development plan as approved.

(6) If, in the judgment of the code enforcement director and the city engineer, the concept of development, as depicted on the final plans, deviates substantially from the concept of the preliminary development plan submitted for zoning or amending, the code enforcement director shall deny the request for final plan approval.

(7) In the event that construction of all improvements shown on the final plan is not completed within a period of three years following the date the preliminary plan was approved by the city council, then the zoning district classification for said tract of land shall automatically revert to its former classification immediately preceding such rezoning.

(8) In the event that development proceeds in stages, then the construction of all improvements shown on the final plan for the first stage shall be completed within a period of three years following the date the preliminary plan was approved. The construction of all improvements shown on the final plan for each subsequent stage shall be completed within a period of three years following the date the final plan for that particular stage was approved. Failure to construct the improvements within the time periods specified herein shall cause the zoning district classification with respect to that portion of the tract of land shown on such final plan, together with all sequentially following stages, to automatically revert back to the zoning district classification immediately preceding such rezoning.

(9) The applicant, in case of denial, may apply for a new hearing, with publication as required in this section, and the commission and council may approve or deny the final plans after said hearing. All decisions of the planning commission may be appealed to the city council, who may reverse or affirm the same.

(d) *Conformance to comprehensive plan.* In the consideration of a change to a planned zoning district, the planning and zoning commission and governing body shall determine whether the proposal conforms to land use and thoroughfare plans, special studies and policies normally utilized in making zoning decisions in the city.

(Code 1989, app. A, § 25-7.1; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-9. Nonconforming uses prior to December 18, 1972.

(a) Continuation. A nonconforming use of land existing lawfully on December 18, 1972, may be continued, but shall not be extended, expanded or enlarged. The lawful use of a building existing on December 18, 1972, may be continued, although such use does not conform with the provisions of this chapter, and such use may be extended throughout such portions of the building as are arranged or designed for such use, provided that no structural alterations, except those required by law, provisions of this Code or other ordinances of the city, are made therein.

(b) Alteration; removal. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classifications. If such nonconforming building is removed, the future use of such premises shall be in conformity with the provisions of this chapter.

(c) Reestablishment of discontinued use. When a nonconforming use has been discontinued for one year or more, it shall not be reestablished.

(d) Changes to conforming or more restricted use. A nonconforming use, if changed to a conforming use or a more restricted, nonconforming use, may not thereafter be changed back to a less restricted nonconforming use than that to which it was changed.

(e) Amendments to chapter. If, by amendment to this chapter, any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification, the provisions of this chapter relating to the nonconforming use of buildings or premises existing on December 18, 1972, shall apply to buildings or premises occupied or used at the time of the passage of such amendment.

(f) Repairs, etc. Repairs and alterations may be made to a nonconforming building, provided that no structural alterations or extensions shall be made, except those required by law or ordinance, unless the building is changed to a conforming use; provided that, by special permit in the case of evident hardship, an extension may be granted of a nonconforming use not exceeding 25 percent of the ground area of the building.

(g) Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued and plans for which are on file with the zoning administrator on December 18, 1972, and the construction of which in either case shall have been diligently prosecuted within one year of the date of such permit, and to the ground story framework of which, including the second tier or beams, shall have been completed, according to such plans as filed, within two years from December 18, 1972.

(h) Nothing in this chapter shall be taken to prevent the restoration, within 12 months, of a nonconforming building destroyed to not more than 75 percent of its reasonable value, exclusive of foundations, by fire, explosion or other casualty, act of God or the public enemy, provided that when such restoration becomes involved in litigation, the time required for such litigation shall not be counted as a part of the 12 months allowed for reconstruction; and nothing in this chapter shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction; but any building so damaged more than 75 percent of its value may not be rebuilt, repaired or used unless it is made to conform to all regulations for buildings in the district in which it is located.

(i) The provisions of this chapter shall not apply to prevent the extension of any building, existing in any district on December 18, 1972, to the height to which the walls, foundation and framework of such existing building originally were intended, designed and constructed to carry, provided that the actual construction of the extension in height permitted by this subsection shall have been duly commenced within ten years from December 18, 1972.
(Code 1989, app. A, § 25-8; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-10. Nonconforming uses prior to July 1, 1997.

(a) Continuation. A nonconforming use of land existing lawfully on July 1, 1997, may be continued, but shall not be extended, expanded or enlarged. The lawful use of a building existing on July 1, 1997, may be continued, although such use does not conform with the provisions of this chapter, and such use may be extended throughout such portions of the building as are arranged or designed for such use, provided that no structural alterations, except those required by law, provisions of this Code or other ordinances of the city, are made therein.

(b) Alteration; removal. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classifications. If such nonconforming building is removed, the future use of such premises shall be in conformity with the provisions of this chapter.

(c) Reestablishment of discontinued use. When a nonconforming use has been discontinued for one year or more, it shall not be reestablished.

(d) Changes to conforming or more restricted use. A nonconforming use, if changed to a conforming use or a more restricted, nonconforming use, may not thereafter be changed back to a less restricted nonconforming use than that to which it was changed.

(e) Amendments to chapter. If, by amendment to this chapter, any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification, the provisions of this chapter relating to the nonconforming use of buildings or premises existing on July 1, 1997, shall apply to buildings or premises occupied or used at the time of the passage of such amendment.

(f) Repairs, etc. Repairs and alterations may be made to a nonconforming building, provided that no structural alterations or extensions shall be made, except those required by law or ordinance, unless the building is changed to a conforming use; provided that, by special permit in the case of evident hardship, an extension may be granted of a nonconforming use not exceeding 25 percent of the ground area of the building.

(g) Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued and plans for which are on file with the zoning administrator on July 1, 1997, and the construction of which in either case shall have been diligently prosecuted within one year of the date of such permit, and to the ground story framework of which, including the second tier or beams, shall have been completed, according to such plans as filed, within two years from July 1, 1997.

(h) Nothing in this chapter shall be taken to prevent the restoration, within 12 months, of a nonconforming building destroyed to not more than 75 percent of its reasonable value, exclusive of foundations, by fire, explosion or other casualty, act of God or the public enemy, provided that when such restoration becomes involved in litigation, the time required for such litigation shall not be counted as a part of the 12 months allowed for reconstruction; and nothing in this chapter shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction; but any building so damaged more than 75 percent of its value may not be rebuilt, repaired or used unless it is made to conform to all regulations for buildings in the district in which it is located.

(i) The provisions of this chapter shall not apply to prevent the extension of any building, existing in any district on July 1, 1997, to the height to which the walls, foundation and framework of such existing building originally were intended, designed and constructed to carry, provided that the actual construction of the extension in height permitted by this subsection shall have been duly commenced within ten years from July 1, 1997.

(Code 1989, app. A, § 25-9; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-11. Interpretation of chapter.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals or general welfare. Whenever this chapter requires a greater width or size of yards, courts or other open spaces or requires a lower height of buildings or a less number of stories or requires a greater percentage of a lot to be left unoccupied or imposes higher standards than are required in any other statute, local ordinance or regulation, the regulations of this chapter shall govern. Whenever the provisions of any other statute, local ordinance or regulation requires a greater width or size of yards, courts or other open spaces or requires a lower height of buildings or a less number of stories or requires a greater percentage of a lot to be left unoccupied or imposes other higher standards than are required by the regulations of this chapter, the provisions of such statute, local ordinance or regulations shall govern.

(Code 1989, app. A, § 25-11; Ord. No. 11296, 6-16-1997)

Sec. 44-12. Amendments, changes, etc., to chapter.

(a) *Authority generally.* The city council may, from time to time, on its own motion or on petition after the public notice and hearings

thereon, as provided herein, amend, supplement, change, modify or repeal the regulations and restrictions as established in this chapter. Before taking any action upon any proposed amendment, supplement, change or modification, the same shall be referred by the city council to the planning and zoning commission for hearing, report and recommendations.

(b) *Protests.* In case of a protest against such amendment, supplement, change, modification or repeal, duly signed and acknowledged by the owners of ten percent or more either of the areas of land included in such proposed change or within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be changed, such amendment shall not be passed except by the favorable vote of two-thirds of the members of the city council.

(c) *Notice of hearings.* No action of an amendment, change, modification or repeal shall be taken until after a public hearing is held before the planning and zoning commission in relation thereto, at which hearing the parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of time and place of such hearing shall be published in a paper of general circulation in the city. All reasonable effort shall be made to notify the owners of property to be rezoned and owners of all land within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be rezoned, by certified mail, addressed to their last-known address.

(d) *List of property owners, etc.; scale drawings, etc.* Any person, property owner or other interested parties requesting that a tract or parcel of land, lots or blocks be changed, amended or rezoned shall provide the planning and zoning commission with a complete list of the names, addresses and legal description of land of all adjacent and adjoining property owners within 185 feet of the proposed area to be changed or rezoned. Such list shall be certified as to accuracy by an abstractor, and the costs of such list and certification shall be paid by the requesting person, owner or parties, which shall also include the expense of notice by certified mail to adjacent and adjoining property owners or owner entitled to such notification. The planning and zoning commission shall have the further right to require the requesting party to provide a scale plat, drawing plat or drawing of the area proposed to be changed and the surrounding area if, in their opinion, the circumstances warrant such drawing.

(e) *Rezoning property to historic.* A property or district that is rezoned to a historic zoning designation does not require a notice to adjacent property owners within 185 feet. It does require approval from the historic preservation commission, the planning and zoning commission, and the city council. A property zoned historic by recommendation and action of the above entities retains its underlying original zoning district requirements concerning the use of the property, setbacks, parking, and other requirements of the district. The historic zoning designation is overlaid on the original zoning district.

(Code 1974, § 25-12; Code 1989, app. A, § 25-12; Ord. No. 11029, § 2, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 11934, 9-20-2010)

Sec. 44-13. Complaints in regard to violations.

Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully state the causes and basis thereof and shall be filed with the zoning administrator. The administrator shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

(Code 1974, § 25-13; Code 1989, app. A, § 25-13; Ord. No. 11296, 6-16-1997)

Sec. 44-14. Remedies and penalties for violations.

(a) In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this chapter, the proper local authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erec-

tion, construction, reconstruction, alteration, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the code enforcement director, who is empowered to cause any building, structure, place or premises to be inspected and examined and to order, in writing, the remedying of any condition found to exist therein in violation of any provision of the regulations enumerated herein.

(b) The owner or general agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which such violation has been committed or shall exist; or the owner, general agent, lessee or tenant of any part of the building or premises in or upon which such violation has been committed or shall exist; or the general agent, architect, building contractor or any other person who commits, takes part or assists in any violation of this chapter or who maintains any building or premises in or upon which a violation of this chapter shall exist, shall be guilty of an ordinance violation punishable by a fine as provided in section 1-8 by imprisonment not to exceed 90 days for each and every day that such violation occurs, or by both such fine and imprisonment.
(Code 1974, § 25-14; Code 1989, app. A, § 25-14; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Secs. 44-15—44-31. Reserved.

ARTICLE II. BOARD OF ADJUSTMENT

Sec. 44-32. Created; powers and duties generally; composition; terms and removal of members; vacancies; election and term of chairperson.

(a) A board of adjustment is hereby established in accordance with the provisions of this chapter, which is adopted pursuant to RMSo 89.010 to 89.140. The term "board," when used in this chapter, means the board of adjustment.

(b) The powers and duties of the board shall be as enumerated in this article.

(c) The board of adjustment shall consist of five members who shall be residents of the city appointed by the mayor and approved by the city council. The membership of the first board appointed shall serve, respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter, members shall be appointed for terms of five years each. All members shall be removable for cause by the mayor and city council, upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairperson who shall serve for one year.
(Code 1989, app. A, § 25-15; Ord. No. 11296, 6-16-1997)

Sec. 44-33. Meetings; quorum; adoption of rules; duties of chairperson; minutes and records; expenditures.

(a) All meetings of the board shall be held at the call of the chairperson and at such times and places within the city as the board may determine. All meetings of the board shall be open to the public.

(b) The presence of four of the members of the board at a meeting of the board shall constitute a quorum. No action shall be taken by the board unless a quorum is present.

(c) The board shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this article.

(d) The chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All testimony by any witness shall be given under oath.

(e) The board shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. All testimony, objections thereto and rulings thereon

shall be taken down by a qualified reporter employed by the board for that purpose. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the board shall immediately be filed in the office of the board and shall be a public record.

(f) In the performance of its duties, the board may incur such expenditures as are authorized by the city council.
(Code 1989, app. A, § 25-16; Ord. No. 11296, 6-16-1997)

Sec. 44-34. Powers of the board.

(a) Powers relative to errors. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

(b) Passing upon appeals. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done, provided that the board of adjustment shall not have the power to vary or modify any ordinance relating to the use of land.

(c) Request for variation and relief from provisions of this chapter other than those listed in this section shall be considered by the planning and zoning commission and city council. The board of adjustment shall not hear appeals of decisions made by the planning and zoning commission or city council.
(Code 1989, app. A, § 25-17; Ord. No. 11296, 6-16-1997)

Sec. 44-35. Appeals to board.

(a) Appeals may be taken to the board as follows:

(1) By any person affected by an order, requirement, interpretation, decision, or determination made by an administrative official in the enforcement of this chapter, provided that variances from the regulations and standards of this chapter shall be granted by the board only in accordance with the regulations and standards set forth in this section, and may be granted in the following instances only and in no others.

(2) By any person aggrieved, by any neighborhood organization, as defined in the Missouri Revised Statutes, representing such person, or by any officer, department, board or bureau of the municipality affected by any decision by an administrative official in the enforcement of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken, certifies to the board of adjustment after the notice of appeal shall have been filed with the officer that by reason of facts stated in the certificate a stay would cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(3) In exercising the board's powers such board may, in conformity with the provisions in appropriate sections of the Missouri Revised Statutes, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

(b) A public hearing is held as follows:

(1) In those instances where the appeal relates to a zoning variance, the appeal shall contain the address and location of the property for which the variance is sought as well as a brief description of the variance sought. The applicant shall pay the cost of such publication;

(2) Each application for a variance shall be accompanied by a fee as shown in the fee schedule to be paid by the applicant.

(c) Vote of four members of board required to reverse. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official in the enforcement of this chapter, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter.

(Code 1989, app. A, § 25-18; Ord. No. 11029, § 3, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 12333, § 1(25-18), 6-17-2019)

Sec. 44-36. Appeals of board decisions.

(a) Any person jointly or severally aggrieved by any decision of the board of adjustment or any officer, department, board, bureau or commission of the city may present to the circuit court of the county or city in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board.

(b) Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment, and shall prescribe therein the time within which a return thereto shall be made and served upon the relator's attorney, which period of time shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report such evidence to the court with findings of fact and conclusions of law, which report shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(e) Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence, in bad faith or with malice in making the decision appealed. All issues in any proceedings under RSMo 89.080 through 89.110 shall have preference over all other civil actions and proceedings.

(Code 1989, app. A, § 25-20; Ord. No. 11296, 6-16-1997)

Secs. 44-37—44-96. Reserved.

ARTICLE III. OFF-STREET PARKING AND LOADING

Sec. 44-97. Required parking.

(a) When units or measurements determining the number of required parking spaces or loading spaces result in a fractional space, any fraction under one-half shall be disregarded, and fractions including and over one-half shall require one parking space or loading space.

(1) Parking in the central business district. Off-street parking is not required for uses permitted in the central business district. The CBD is the area defined as follows: south right-of-way line of Illinois Street, on the north; east of a line which extends parallel and 215 feet west of the centerline of Main Street, on the west; west right-of-way line of High Street, on the east; and north right-of-way line of Jefferson Street, on the south.

a. Existing buildings used for residential, business, or a combination of these uses in the CBD do not require off-street parking.

b. The following exceptions shall apply:

1. Buildings used as of July 20, 2015, for the purpose of offering retail, or other commercial business in the ground floor space, whose owner wishes to change the use of this ground floor space from retail/commercial to residential living, must provide on-site parking for the residential use. One parking space shall be provided for each bedroom.

2. In this application on-site parking shall be defined as specific, reserved parking spaces on the same lot or parcel of land as the structure the parking is intended to serve.

3. New construction of buildings for business purposes in the area defined above may require construction of off-street parking, dependent upon the type of business that occupies the site. Example: Hotels, motels, theaters, or similar types of businesses that might include convention centers, churches, or community centers, or other places of public assembly may require the construction of off-street parking. The decision of whether new buildings in the area defined above will be required to provide parking, and the amount of parking, will be made by the city council after a recommendation from the planning and zoning commission. A public hearing will not be required.

c. New construction of buildings for residential purposes, in the CBD, will require off-street parking on the same lot or parcel of land as the residential use. Parking may also be located in a privately owned lot in the same block, or the parking may be located in a privately owned lot across the street from the structure.

(2) In all other districts not located within the above-described area, the requirements for off-street parking which are in effect as of the effective date of the ordinance from which this article is derived shall continue to apply; provided, however, that after the effective date of the ordinance from which this article is derived, no building or structure shall be erected, constructed or moved, changed in use, nor physically altered so as to increase the floor area of such building or structure, nor shall the interior of any such building or structure be remodeled or renovated where the cost of renovation or remodeling is in excess of 50 percent of

the fair market value of such building or structure, unless there already is in existence upon the property, or unless provision is made for the location on the property concurrently with such erection, construction, moving, alteration, change in use, remodeling or renovation, off-street parking space on the basis of the minimum requirements contained herein.

(3) Minimum off-street parking requirements are:

a. All required parking and driveway areas are to be hard-surfaced with concrete or asphalt paving.

b. Tandem parking is allowed for single- and two-family (duplex) residential property given the units have separate driveways.

c. Any new secondary drive onto the property must be hard-surfaced from the edge of the street to the property line. If the distance from the edge of the street to the property line is less than six feet, a minimum of six feet of the drive must be hard-surfaced, starting at the street edge.

d. Single-family dwelling: Two parking spaces per dwelling.

e. Two-family (duplex) dwelling: One parking space per bedroom.

f. Multifamily dwelling: One parking space per bedroom.

(4) Hotels. Hotels, including clubs, lodging-houses, boardinghouses, residence halls, motels, tourist and trailer camps and parks, and all other similar places offering short-term overnight accommodations, shall provide at least one parking space for each employee on the largest shift and one parking space for each guestroom. If assembly halls, bars, restaurants, nightclubs, retail shops or room for other shops, services establishments or businesses are provided, additional parking spaces shall be required in accordance with the regulations set forth herein for such additional uses.

(5) Fraternities, sororities, and similar uses.

a. One parking space for each member of the organization living on the premises and one parking space for each employee on the largest shift. In addition, where fraternities, sororities, or similar uses have areas inside the main building or accessory to, for the purpose of meetings, social functions, etc., additional parking according to the maximum floor area allowances per occupant shall apply. The most current building code adopted by the city shall be used in determining occupant load. Once the occupant load is established, the parking requirement shall be one parking space for each four occupants as permitted.

b. In computing total parking requirements in cases where social and meeting areas exist, the additional number of spaces required for social functions, meetings, etc., may be reduced by half of the number required for the residents in the main building. Please see the formula below to calculate the required parking.

1. RPS: Parking space for each member of the organization living on the premises.

2. ESP: Parking space for each employee on the largest shift.

3. APS: Parking spaces required for accessory uses such as social functions, meetings, etc.

RPS + EPS + (APS x 0.5) = required parking

(6) Hospitals. Hospitals, including sanitariums, orphanages, convalescent homes, nursing homes, and all other similar institutions, shall provide at least one parking space for each employee,

staff member, administrative personnel, and one space for every four visiting doctors, and one parking space for every four patient beds. In determining the total number of spaces required, the greatest number of employees, staff, administrative personnel, and visiting doctors, in any one given shift, shall be used in determining the total number of parking spaces required.

(7) Restaurants. Restaurants, including bars, taverns, nightclubs, lunch counters, diners and all other similar dining or drinking establishments, shall provide at least one parking space for each employee on the largest shift, and one parking space for every four seats provided for patron use.

(8) Theaters. Theaters, including motion picture houses, shall provide at least one parking space for each employee on the largest shift, and one parking space for every four seats provided for patron use.

(9) Places of public assembly. Places of public assembly, including assembly halls, exhibition halls, convention halls, auditoriums, skating rinks, dance halls, bowling alleys, sports arenas, stadiums, gymnasiums, amusement parks, race tracks, fairgrounds, churches, funeral homes, mortuaries, community centers, student centers, libraries, museums, private clubs, lodges and all other places of public assembly, shall provide at least one parking space for each employee on the largest shift, and one parking space for every 400 square feet of gross building area or, if applicable, one parking space for every four seats provided for patron use.

(10) Retail establishments. Retail establishments, including all retail stores, any retail businesses, banks, other financial and lending institutions, personal service shops, equipment or repair shops, gasoline or other motor fuel stations or motor vehicle sales or repair establishments, shall provide at least one parking space for each employee on the largest shift, and one parking space for every 400 square feet of gross building area. The minimum parking requirement for retail establishments shall be at least four parking spaces. All required parking spaces must be hard-surfaced.

a. For new or used car dealerships, in conjunction with the employee and building square footage hard surface parking requirements, all new or used vehicles offered for sale must be parked on a hard surface connected with a hard surface driveway that connects to a city street. Any new business start-up for auto sales must be in compliance before a business license will be issued. As of the effective date of the ordinance from which this article is derived, any vehicle dealership currently in business will be grandfathered for the hard surface parking and drive requirements, with the following exception: Any parking of vehicles on dealerships that are grandfathered must be parked on good rock-based parking areas and not on dirt or parking areas that would be muddy when wet conditions are present.

b. Special displays of vehicles temporarily parked on grass or other surfaces for aesthetic purposes is not considered a violation of this section.

(11) Office buildings. Office buildings, including commercial, government and professional buildings, and medical and dental clinics, shall provide at least one parking space for each employee on the largest shift, and one parking space for every 400 square feet of gross building area. The minimum parking requirement for office buildings shall be four parking spaces.

(12) Wholesale manufacturing and industrial plants. Wholesale manufacturing and industrial plants, including warehouses,

storage buildings, and yards, public utility buildings, contractor equipment and lumber yards, research laboratories, business service establishments, such as blueprinting and engraving, soft drink bottling establishments, fabricating plants and all other structures devoted to similar mercantile or industrial pursuits, shall provide at least one parking space for each employee in the shift with the greatest number of employees, and one parking space for every 200 square feet of area accessible to patrons. For buildings used for storage purposes only, where there is no additional personnel hired for their operation, a minimum of two parking spaces shall be required.

(13) Terminal facilities. Terminal facilities, including airports, and freight stations, bus depots, truck terminals and all other similar facilities, shall provide at least one parking space for each employee, and one parking space for every 200 square feet of area accessible to patrons.

(14) Schools. Schools, including academies, colleges, universities, elementary schools, junior high schools, high schools, prep schools and all other similar institutions of learning, shall provide at least one parking space for each employee in the shift with the greatest number of employees, and one parking space for every three students 16 years of age or older.

(b) All uses please note: In determining total parking requirements for uses other than a specific use group previously regulated in this section and shift work is the mode of operation, the shift having the greatest number of employees shall be considered.

(Code 1989, app. A, § 25-31; Ord. No. 10904, 3-19-1990; Ord. No. 11029, § 4, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11996, § 1, 3-19-2012; Ord. No. 12157, § 4, 4-20-2015; Ord. No. 12162, §§ 1, 2, 7-20-2015; Ord. No. 12165, § 1, 8-3-2015; Ord. No. 12171, § 1, 9-21-2015; Ord. No. 12277, § 1(25-31), 4-16-2018)

Sec. 44-98. Required loading space.

No building or structure shall be erected or changed in use, and no extensions, major repairs or substantial alterations shall be made to an existing building or structure in any district, except in the CBD, where no off-street parking is required, unless there already is in existence upon the lot, or unless provision is made for the location on the lot concurrently with such erection or change of use, off-street loading space on the basis of the following requirements:

(1) Every department store, freight terminal, hospital or sanitarium, industrial plant, manufacturing establishment, retail business, storage warehouse or wholesale establishment, which has an aggregate floor area of 10,000 square feet or more, arranged, intended or designed for such use shall provide off-street loading spaces in accordance with the following table:

Aggregate floor area devoted to such use	*Required number of loading spaces*
From 10,000 up to 40,000 square feet	1
Over 40,000 up to 100,000 square feet	2
Over 100,000 up to 160,000 square feet	3
Over 160,000 up to 250,000 square feet	4
For each additional 100,000 over 250,000 square feet	1 additional space

(2) Every auditorium, convention hall, exhibition hall, funeral home, hotel, multifamily dwelling, office building, restaurant, sports arena or welfare institution, which has an aggregate floor area of 10,000 square feet or more, arranged, intended or designed for such use shall provide off-street loading spaces in accordance with the following table:

Aggregate floor area devoted to such use	*Required number of loading spaces*
From 10,000 up to 50,000 square feet	1
Over 50,000 up to 150,000 square feet	2
Over 150,000 up to 300,000 square feet	3
For each additional 150,000 over 300,000 square feet	1 additional space

(Code 1989, app. A, § 25-32; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-99. Locations.

(a) In addition to the regulations listed in this section, in some special circumstances a driveway may be allowed in the front yard. These circumstances include when:

(1) The lot has access to an alley with unimproved grass surface or no gravel;

(2) The lot has access to a non-through alley;

(3) The lot has access to an alley where sections are less than 12 feet wide due to obstacles, such as structures, trees or utility poles, which may inhibit through traffic; or

(4) The dwelling meets qualifying American with Disabilities Standards.

(b) In addition, off-street parking locations must meet the following:

(1) *Commercial and industrial zoned districts.* The parking facilities required shall be on the same lot or parcel of land as the structure they are intended to serve.

(2) *Exclusively residential land uses in commercial and industrial zoned districts.*

a. *Corner lots.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within the interior side yard. A driveway may be located in the exterior side yard, given the edge of the driveway is no closer than 25 feet from the front building line.

3. *Front yard.* Where all parking locations within the rear and side yards have been maximized, a driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. A newly constructed driveway within the front yard shall be located parallel and adjacent to an interior side lot line.

b. *Interior lots.*

1. *Rear yard.* Parking and driveways may be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within the interior side yards.

3. *Front yard.* A driveway may be located in the front yard to gain access to parking which may be located in an interior side yard or rear yard. A driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. A newly constructed driveway within the front yard shall be located parallel and adjacent to an interior side lot line.

c. *Through lots.*

1. *Rear yard.* No more than two driveways may be located within the rear yard. The width of each driveway shall not exceed 40 percent of the lot width. The area of each driveway shall not exceed 40 percent of the front yard. When two separated driveways are

located within the front yard, the driveways shall be located parallel and adjacent to an interior side lot line. Said driveways shall be separated by an area of greenspace extending from the street edge or back of curb to the front building line

2. *Side yard.* Parking and driveways may be located within the interior side yards.

3. *Front yard.* A driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. A newly constructed driveway within the front yard shall be located parallel and adjacent to an interior side lot line.

(3) *Single-family residential zone, central neighborhood district; two-family residential zone; two-family special residential zone; and planned mobile home park zone.*

a. *Corner lots.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within an interior side yard. A driveway may be located in the exterior side yard, given the edge of the driveway is no closer than 25 feet from the front building line.

3. *Front yard.* Where all parking locations within the rear and side yards have been maximized, a driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. A newly constructed driveway within the front yard shall be located parallel and adjacent to an interior side lot line.

b. *Interior lots.*

1. *Rear yard.* Parking and driveways may be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within the interior side yards.

3. *Front yard.* A driveway may be located in the front yard to gain access to parking which may be located in an interior side yard or rear yard. A driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. A newly constructed driveway within the front yard shall be located parallel and adjacent to an interior side lot line.

c. *Through lots.*

1. *Rear yard.* No more than two driveways may be located within the front yard. The width of each driveway shall not exceed 40 percent of the lot width. The area of each driveway shall not exceed 40

percent of the front yard. When two separated driveways are located within the front yard, the driveways shall be located parallel and adjacent to an interior side lot line. Said driveways shall be separated by an area of greenspace extending from the street edge or back of curb to the front building line.

2. *Side yard.* Parking or driveways may be located within the interior side yards.

3. *Front yard.* A driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. A newly constructed driveway within the front yard shall be located parallel and adjacent to an interior side lot line.

(4) *Central business district zone inside the central business district; central mixed district, square; central mixed district, general; central mixed district, corridor.*

a. *Corner lots.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard.

2. *Side yard.* Parking and driveways may be located with an interior side yard. Parking and driveways shall not be located within an exterior side yard.

3. *Front yard.* Parking and driveways shall not be located within the front yard.

b. *Interior lots.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within one interior side yard.

3. *Front yard.* Parking and driveways shall not be located within the front yard.

c. *Through lots.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within one interior side yard.

3. *Front yard.* Parking and driveways shall not be located in any front yard.

(5) *Multifamily residential zone, multifamily special residential zone, general residential zone, general special residential zone, central neighborhood district; multifamily, office zone, and central business district zone outside the central business district.*

a. *Corner lots.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard.

2. *Side yard.* Parking and driveways may be located within the interior side yard. A driveway may be located in the exterior side yard, given the edge of the driveway is no closer than 25 feet from the front building line.

3. *Front yard.* Where all parking locations allowed within the rear and side yards have been maximized, a driveway may be located within the front yard. A driveway within the front

yard shall be located parallel and adjacent to an interior side lot line.

b. *Interior lots with alley access.*

1. *Rear yard.* Parking and driveways shall be located within the rear yard when possible, with the exception of single- and two-family dwellings, which may locate parking and driveways within the rear yard.

2. *Side yard.* Parking and driveways may be located within the interior side yards.

3. *Front yard.* Where all parking locations allowed within the rear and side yard have been maximized, excluding single- and two-family dwellings, a driveway may be located within the front yard. A driveway within the front yard shall be located parallel and adjacent to an interior side lot line. For single- and two-family dwellings, a driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. Newly constructed driveways within the front yard shall be located parallel and adjacent to an interior side lot line.

c. *Interior lots without alley access.*

1. *Rear yard.* Parking and driveways may be located within the rear yard.

2. *Side yard.* Parking or driveways may be located within the interior side yard.

3. *Front yard.* No more than two driveways may be located within the front yard. The width of each driveway shall not exceed 40 percent of the lot width. The area of each driveway shall not exceed 40 percent of the front yard. When two separated driveways are located within the front yard, the driveways shall be located parallel and adjacent to an interior side lot line. Said driveways shall be separated by an area of greenspace extending from the street edge or back of curb to the front building line.

d. *Through lots.*

1. *Rear yard.* No more than two driveways may be located within the rear yard. The width of each driveway shall not exceed 40 percent of the lot width. The area of each driveway shall not exceed 40 percent of the rear yard. When two separated driveways are located within the rear yard, the driveways shall be located parallel and adjacent to an interior side lot line. Said driveways shall be separated by an area of greenspace extending from the street edge or back of curb to the front building line.

2. *Side yard.* Parking or driveways may be located within the interior side yards.

3. *Front yard.* Where all parking locations allowed within the rear and side yard have been maximized, excluding single- and two-family dwellings, a driveway may be located within the front yard. A driveway within the front yard shall be located parallel and adjacent

to an interior side lot line. For single- and two-family dwellings, a driveway may be located in the front yard if the lot has an existing driveway or existing driveway approach. A new driveway may also be located in the front yard if more than half of the lots on both sides of the street and within one block have existing driveways or existing driveway approaches. Newly constructed driveways within the front yard shall be located parallel and adjacent to an interior side lot line.

(6) *New construction of residential and mixed land uses within the central business district.* The required off-street parking facilities shall be located within the rear yard or one interior side yard. Parking may also be located in a privately owned lot in the same block, or the parking may be located in a privately owned lot across the street from the structure.

(7) *Institutional land uses.* Universities, hospitals, and large industries where lands owned by or controlled by the main or principal owner shall be permitted to have parking serving these uses on separate lot parcels from the main facilities.

(8) *Interior block row houses.* In R-1 districts, the required off-street parking or loading spaces for residential buildings shall not be located in a front yard, provided that where a whole block is developed or is being developed with row houses that face toward the interior of the block, each separate lot containing one dwelling unit within such a row house may be provided for with two off-street parking spaces of not more than 360 square feet in the front yard area, so long as there is no other off-street parking space upon any part of such separate lot.

(9) *Off-street loading facilities.* The off-street loading facilities required herein shall in all cases be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be a part of the area used to satisfy the off-street parking requirements contained herein.

(10) *Off-street parking limitations.* The off-street parking facilities required shall be on the same lot or parcel of land as the structure they are intended to serve or when the planning and zoning commission determines that the development of the area, the topography of the lot or some other physical feature makes it impractical to establish them upon the same lot and the commission gives its written approval, under the rules set forth in article II of this chapter, then such off-street parking facilities shall be within 200 feet of the premises they are intended to serve. Off-street parking facilities intended to serve a particular structure shall be located in the same district, provided that they need not, in any event, be in a less restricted use district than district CBD.

(Code 1989, app. A, § 25-33; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1(25-33), 4-16-2018)

Sec. 44-100. Utilizing the undeveloped public right-of-way for parking.

(a) To utilize the undeveloped public right-of-way for the creation of new parking, the property owner must complete and submit a right-of-way permit application with site plans that reflect the required design standards. The right-of-way permit application must be approved by the city engineer. No right-of-way permit application will be approved if:

(1) The right-of-way is less than ten feet in width;

(2) The right-of-way is less than 21 feet in length;

(3) Healthy street trees with a trunk circumference of three feet or greater will be removed;

(4) Current or proposed city utilities are located or planned within the right-of-way;

(5) Written concurrence of the right-of-way development has not been obtained by all property owners abutting the right-of-way;

(6) Any conflicts with section 32-69(8).

(b) The city reserves the right to repeal a previously approved right-of-way permit if the right-of-way is needed for public utility use or other public use deemed necessary by the city.

(c) For every street tree removed from the right-of-way, the property owner must plant a replacement tree on their property within a ten-foot radius of the location of the removed street tree. The replacement tree shall be planted at a maximum distance of four feet from the edge of the public right of way. Please see chapter 32, article VIII.

(d) Parking constructed within the right-of-way must meet the following design standards:

(1) The length of the parking area must be curbed along the inside of the parking area;

(2) The parking area must be sloped toward the street at a two percent grade to allow for proper drainage;

(3) The parking area shall be a minimum of six-inch Portland cement concrete or six-inch asphaltic concrete;

(4) Parking stalls must be nine feet in width and 18 feet to 21 feet in length; and

(5) The parking area shall be appropriately striped.

(e) Undeveloped public rights-of-way may be developed into on-street public parking so long as the length of this parking area extends from block corner to block corner or from block corner to alley. It is the financial and general responsibility of the property owner constructing the on-street public parking to connect to any adjoining and pre-existing parking areas to ensure continuity and connectivity.

(f) The newly constructed parking areas shall be properly striped with white paint. Stripes must be six inches in width. The initial painting and future maintenance of striping of newly constructed parking areas within the right-of-way after the passage of this Code shall be carried out at the developer's and/or abutting property owner's expense for properties outside the central business district.

(Code 1989, app. A, § 25-34; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1(25-34), 4-16-2018)

Sec. 44-101. Mixed-use parking calculations.

(a) Nothing in this article shall be construed to prevent the joint use of off-street loading or off-street parking space, for two or more buildings or uses, if the total of such spaces when used together shall not be less than the sum of the requirements for the various individual uses computed separately.

(b) When units or measurements determining the number of required parking spaces, loading spaces, or bedrooms result in a requirement of a fractional space, any fraction under one-half shall be disregarded, and fractions including and over one-half shall require one parking space, loading space, or bedroom.

(c) Calculating required parking for mixed-use developments. In the case for mixed-use developments that combine land uses into a single building, the parking calculation for the development shall be calculated as follows:

(Parking spaces required for residential use multiplied by 0.75), plus (parking spaces required for additional use multiplied by 0.75), plus possible loading space requirement equals parking required for the mixed-use development.

Example: Builder A is seeking to build mixed-use development that will have two, two bedroom residential units located on the second floor and a 2,400 square foot retail establishment on the first floor

where the largest shift includes four employees. According to section 44-97(a)(10), one parking space is required for every 400 square foot of retail space and one parking space for every employee on the largest shift. Different uses will have different requirements on calculating parking and should be followed accordingly per section 44-97.

(1) STEP 1: Calculate the parking spaces required for the residential use.

4 bedrooms x 1 parking space per bedroom = 4 parking spaces.

(2) STEP 2: Calculate the parking spaces required for the additional use (retail).

4 parking spaces for the largest shift + (2,400 square feet of retail space/400 square feet per parking space) = 10 parking spaces required for additional use.

(3) STEP 3: Multiply the parking spaces required per use by 0.75 and add together to determine the parking spaces required for the mixed-use development.

Residential use (4 Parking Spaces x 0.75)	=	3
		+
Additional use (10 Parking Spaces x 0.75)	=	8 (Round up from 7.5)
Parking required for the mixed-use development	=	11 Parking Spaces

(Code 1974, § 25-35; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1 (25-35), 4-16-2018)

Sec. 44-102. Submitting plans.

Plans shall be submitted to the zoning administrator to show how required parking or off-street loading spaces will be arranged in the area and to indicate space for parking maneuvers as well as adequate access to the area.
(Code 1974, § 25-36; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1(25-36), 4-16-2018)

Sec. 44-103. Continuing nature of obligation; discontinuing, etc., structure.

(a) The schedule of requirements for off-street parking space and off-street loading space applicable to newly erected or substantially altered structures shall be a continuing obligation of the owner of the real estate on which any such structure is located so long as the structure is in existence and its use requiring vehicle parking or vehicle loading facilities continues.

(b) It shall be unlawful for an owner of any building affected by this article to discontinue, change or dispense with or to cause the discontinuance, sale or transfer of such structure, without establishing alternative vehicle parking or loading space which meets the requirements of and is in compliance with this article, or for any person to use such building without obtaining the use of sufficient land for vehicle parking or loading space to meet the requirements of this article.
(Code 1974, § 25-37; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1(25-37), 4-16-2018)

Sec. 44-104. Maintenance of parking facilities and design specifications.

(a) *General.* All off-street parking facilities required by this article shall be surfaced, drained and periodically maintained by the owner or operator, and such facilities shall be arranged for convenient access and safety of pedestrians and vehicles. No open area in an off-street parking area shall be encroached upon by buildings, storage, sales, repair work, dismantling or servicing of any kind or any other use.

(b) *Design specifications.* All parking plans for uses must first be submitted to the city engineer and code enforcement director for review

and approval. Proper entrances, curbs, lanes and signage must be shown. All plans must be to scale and be competently drawn.

(c) *Surface.*

(1) Residential (light traffic): Minimum four-inch Portland cement concrete or six-inch asphaltic concrete;

(2) Commercial (heavy loads): Minimum six-inch Portland cement concrete or eight-inch asphaltic concrete;

(3) Alternate design specification:

a. Residential (light traffic): Six-inch full depth asphaltic concrete or four-inch asphaltic concrete with five inches of untreated aggregate subbase, equivalent with MSHTD specifications for Type 2 aggregate for base, either gradation A or gradation B. The subbase would need to be compacted to 100 percent of standard maximum density.

b. Commercial (heavy loads): Eight-inch full depth asphaltic concrete, or six-inch depth asphaltic concrete with five inches of untreated aggregate subbase, equivalent to MSHTD specification for Type 2 aggregate for base, either gradation A or gradation B. The subbase would need to be compacted to 100 percent of standard maximum density.

(d) *Drainage.* Plans of parking areas must be so designed to allow proper runoff without creating damage to surrounding properties. Plans must be submitted to the code enforcement director and city engineer and approved prior to construction.

(e) *Subbase.* 95 percent density is required for base prior to construction of parking area.

(f) *Curbs, parking lots, sidewalks.* Curbs will be required in all parking areas/lots other than one- and two-family residential. Entrances from public streets shall be six-inch minimum depth from the physical street connection to the property line. All parking lots, sidewalks and walkways to parking areas shall be required to have reinforcements installed in all concrete that is less than six-inch in depth. Concrete poured at a depth of six-inch or greater will not require reinforcement. Reinforcements shall be a minimum of number three rebar (three-eighths-inch diameter bar) on no more than 24-inch centers. If using fiber mesh in the concrete mix, the rebar reinforcement can be placed at no more than 42-inch centers. Sidewalks only shall have the option of using a six-inch by six-inch welded wire mesh of ten gauge steel, minimum, for its reinforcement.

(g) *Parking area/lot setback.*

(1) The back of the curb shall not be closer than four feet to a property line on 90 degree parking, two feet on 60 degree and 45 degree parking patterns, and a minimum of one foot curb setback is required for parallel parking.

(2) Parking on corner lots shall not obstruct the vision of traffic approaching the intersection from any direction.

(h) *Dimensions of parking and other paved areas.* Parking stall dimensions shall not be less than nine feet by 18 feet for both commercial and residential developments, plus the necessary space for maneuvering into and out of the space. For parking lots the minimum cross dimensions shall be as follows:

(1) *Two-way drive.*

a. 90 degree pattern: Single-loaded aisle: 44 feet;

b. 90 degree pattern: Double-loaded aisle: 63 feet;

c. 60 degree pattern: Single-loaded aisle: 45 feet;

d. 60 degree pattern: Double-loaded aisle: 66 feet;

e. 45 degree pattern: Single-loaded aisle: 43 feet;

f. 45 degree pattern: Double-loaded aisle: 63 feet;

g. 30 degree pattern: Single-loaded aisle: 41 feet; and

h. 30 degree pattern: Double-loaded aisle: 58 feet.

(2) *One-way drive.*

a. 90 degree pattern: Single-loaded aisle: 42 feet;

b. 90 degree pattern: Double-loaded aisle: 63 feet;

c. 60 degree pattern: Single-loaded aisle: 38 feet;

d. 60 degree pattern: Double-loaded aisle: 60 feet;

e. 45 degree pattern: Single-loaded aisle: 33 feet;

f. 45 degree pattern: Double-loaded aisle: 52 feet;

g. 30 degree pattern: Single-loaded aisle: 29 feet;

h. 30 degree pattern: Double-loaded aisle: 46 feet; and

i. Parallel spaces: Nine by 21 feet each space.

(i) *Turning movement to take place in parking lot; exceptions.* Parking lots shall be designed so that vehicles exiting a parking lot shall conduct their turning movement on the lot so served. Exception: one- and two-family dwellings, and when projects use alleys for parking lot access and in the cases of dead ends, or low traffic orientated streets, backing onto these public thoroughfares shall be permitted. Note: Determination of eligible streets shall be made by the city engineer and zoning administrator.

(Code 1989, app. A, § 25-39; Ord. No. 10904, 3-19-1990; Ord. No. 11029, § 5, 4-6-1992; Ord. No. 11813, 11-6-2007; Ord. No. 11996, § 1, 3-19-2012; Ord. No. 12277, § 1(25-39), 4-16-2018)

Sec. 44-105. Changes in requirements.

The number of parking or loading spaces required upon the erection, change in use, or substantial alteration of a building shall not be reduced, except upon approval of a variance by city council, after receiving a recommendation by the planning and zoning commission, and after proof that, by reason of diminution in floor area, seating, number of employees or change in other factors controlling the requirements for parking or loading spaces, the proposed reduction is consistent with the provisions of this article. Whenever, after March 19, 1990, an increase in floor area, seating, number of employees or other factors or changes in the use of a building or structure creates a need for an increase of more than 25 percent of the number of off-street parking or loading spaces, as determined by the requirements of this article, more off-street parking or loading space facilities of such change shall be provided within 180 calendar days on the basis of such adjusted needs, as determined by this article.

(Code 1989, app. A, § 25-40; Ord. No. 10904, 3-19-1990; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-106. Use of required parking by another building.

(a) Except as provided in a planned zoning district or a mixed-use development, no part of an off-street parking area required for any building or use for the purpose of complying with this article shall be included as a part of an off-street parking area similarly required for another building or use, unless the planning and zoning commission determines from the type of the structure or other proof that the periods of usage for such building shall not be simultaneous with each other and is approved by the city council, after receiving a recommendation by the planning and zoning commission.

(b) Note: In the case of occupancy style that would not necessitate the need for parking or loading space as required in this article, then such parking or loading space requirements may be varied by city council, after receiving a recommendation by the planning and zoning commission at the request of the owner/developer.

(Code 1989, app. A, § 25-41; Ord. No. 10904, 3-19-1990; Ord. No. 11029, § 6, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12277, § 1(25-41), 4-16-2018)

Secs. 44-107—44-125. Reserved.

ARTICLE IV. PERMITTED USES

Sec. 44-126. Permitted use table.

The table in this section indicates the generally permitted uses in each specific zoning district within the city. Additional conditions for each use may be indicated with a corresponding section located within this article.

P: The use is permitted in the district.

S: The use will require a special use permit in the district. For more information regarding special use permits, see article IX of this chapter.

Blank: Use is not permitted in the district.

USES	*DISTRICTS*																		*Additional Conditions*
	R-1	*R-2*	*R-2-S*	*R-3*	*R-3-S*	*R-4*	*R-4-S*	*R-5*	*OP-1*	*C-1*	*CBD*	*C-3*	*M-1*	*M-2*	*CMD-SQ*	*CMD-G*	*CMD-C*	*CND-MF*	*CND-SF*	
COMMUNITY, PUBLIC, AND RECREATION USES																				
Bus passenger stations										P	P	P	P	P						
Cemeteries	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
Community buildings such as libraries, museums, and recreational, educational, and human service centers	S	S	S	S	S	S	S	S	S	S	S	S	S							
Dance halls, assembly halls, and similar places of assembly										P	P	P	P	P						
General hospitals										P	P	P	P							
Newspaper offices and printing shops										P	P	P	P	P						
Places of worship and other customarily associated religious buildings	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-127

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Golf courses and clubhouses appurtenant thereto, except miniature golf courses, driving ranges and other similar activities operated as a business	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
All schools, elementary and secondary and institutions of higher learning, including stadiums and dormitories in conjunction therewith if located on campus	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
Publicly owned and privately operated parks, parkways, and recreational facilities when located on publicly owned land	P	P	P	P	P	P	P	P	P	P	P	P	P							
Publicly owned buildings	S	S	S	S	S	S	S	S	S	S	S	S	S							
COMMERCIAL AND RETAIL USES																				
Any retail business or use of a similar character of those listed and not included in districts C-3, M-1 and M-2; provided, that such use is not noxious or offensive, by reason of vibration, noise, odor, dust, smoke or gas											P	P	P	P						

USES	DISTRICTS																Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Accessory air conditioning plants, ice and refrigerating plants purely incidental to the main activity permitted on the premises and operated by electricity or gas										P	P	P	P	P						
Armories											P	P	P	P						
Assembly halls											P	P	P	P						
Auto parts shop										P	P	P	P							
Automobile filling and service stations, including oil change or lubrication stations; provided, that all storage tanks for gasoline shall be below the surface of the ground																				Sec. 44-128
Automobile or car wash establishments																				
Automobiles or trailer salesrooms or yards, other than premises where used vehicles are dismantled or used parts are sold											P	P	P	P						
Automobile parking lots for passenger cars only										P	P	P	P	P						
Bakeries											P	P	P	P						
Beauty salon																				
Bed and Breakfast establishments	S	S	S	S	S	S	S	S	S	S	S	S	S	S						Sec. 44-128
Beer gardens											P	P	P	P						Sec. 6-25

USES	DISTRICTS																		Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CND-MF	CND-SF	
Bicycle repair shops, electric repair and "fix-it" shops										P	P	P	P	P						
Bowling alleys											P	P	P	P						
Bus passenger stations											P	P	P	P						
Cleaning, pressing, dyeing and laundry establishments, including self-service laundries and dry-cleaning establishments										P	P	P	P	P						
Commercial kennels																				
Commercial parking garages																				
Day care over ten children	S	S	S	S	S	S	S	S	S	P	P	P	P	P						Sec. 44-144
Dance halls											P	P	P	P						
Drive-in theaters	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
Frozen food lockers										P	P	P	P	P						
Garage, public; provided, that no repair activities are carried on outside of the building											P	P	P	P						
Garages, storage										P	P	P	P	P						
Greenhouses, commercial										P	P	P	P	P						
Gymnasiums and recreational buildings, commercial											P	P	P	P						
Hotel											P	P	P							
Lodge halls											P	P	P	P						
Lumber yards, must have fencing, screening, and/or organized bins										P	P	P	P	P						

USES	DISTRICTS																Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Medical marijuana cultivation facility, entirely within enclosed building												P	P	d						Sec. 44-144
Medical marijuana cultivation facility, inside or outside a building													P	P						Sec. 44-144
Medical marijuana dispensary facility, entirely within enclosed building										P	P	P	P	P						Sec. 44-144
Miniature golf courses; provided, that any lights shall be directed away from any adjacent residential districts										P	P	P	P	P						
Mortuaries, not including monument storage or displays										P	P	P	P	P						
Motel										P	P	P	P							
New and used automobile, truck and tractor, boat, mobile home, recreation vehicle, and trailer sales																				
Newspaper publishing plants											P	P	P	P						
Nightclub											P	P	P	P						Sec. 6-35
Outdoor cafes and seating										S	S	S	S	S						
Outdoor sales																				
Photographic service shops																				

USES	DISTRICTS																Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Plumbing shops; provided, that no material or equipment shall be stored in the front or side yards										P	P	P	P	P						
Printing shops										P	P	P	P	P						
Radio and television broadcasting stations and studios, except towers										P	P	P	P	P						
Residential treatment facilities for alcohol and drug abuse										P	P	P	P	P						
Restaurants, cafes or cafeterias, where there is no floor show or other form of entertainment, and where there is no sale or consumption of liquor										P	P	P	P	P						
Restaurants, drive-through/fast food/drive-in										P	P	P	P	P						
Restaurants, standard (excluding drive-through facilities)										P	P	P	P	P						
Retail sales establishments										P	P	P	P	P						
Schools operated as a business										P	P	P	P	P						
Shoe repair shops										P	P	P	P	P						
Shooting galleries and similar commercial recreation buildings or activities										P	P	P	P	P						Sec. 44-141

USES	DISTRICTS																Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CND-MF	CND-SF	
Shops for custom work or manufacture of articles to be sold at retail only on the premises										P	P	P	P	P						
Signs limited to advertising of services or products on the premises										P	P	P	P	P						Sec. 44-140
Skating rinks											P	P	P	P						
Storage warehouses											P	P	P	P						Sec. 44-142
Stores, shops and markets for retail trades; provided, that merchandise shall not be displayed, stored or offered for sale on the premises outside of a building within the required front yard										P	P	P	P	P						
Studios										P	P	P	P	P						
Swimming pools, commercial										P	P	P	P	P						
Tavern, saloon, bar, lounge											P	P	P	P						Sec. 6-35
Telephone central offices and sample rooms											P	P	P	P						
Theaters or picture shows										P	P	P	P	P						
Tire shops										P	P	P	P	P						
Tourist and trailer camps										P	P	P	P	P						
Veterinary hospital, if within an enclosed building											P	P	P	P						
Wholesale sales offices and sample rooms											P	P	P	P						
INDUSTRIAL, RESEARCH, AND TECHNOLOGY USES																				

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Accessory uses customarily incidental to industrial, research, and technology uses													P	P						
Acid manufacturing														P						Sec. 44-143
Adult entertainment businesses (as limited by Article X of Chapter 14 of the Code of the City of Kirksville)													P	P						
Automotive repair garages, auto engine and body repair, and undercoating shops													P	P						
Automobile wrecking yards, if enclosed within an approved solid fence or wall at least eight feet high, which must effectively screen in all automobiles contained therein														P						Sec. 44-143
Blacksmith or wagon shops													P	P						
Bottling or distribution plants including creameries													P	P						
Carpet cleaning establishments													P	P						
Cement, lime, gypsum or plaster of paris manufacture														P						
Central dry cleaning plants or laundries													P	P						
Cold storage plants													P	P						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Concrete mixing plants													P	P						
Distillation of bones														P						Sec. 44-143
Dog kennels, commercial, a place where five or more dogs over the age of six months are kept, whether for sale to the public or for private use													P	P						
Electroplating works																				Sec. 44-143
Explosive manufacture or storage														P						Sec. 44-143
Fertilizer manufacture and storage														P						Sec. 44-143
Freight terminals, rail or truck													P	P						
Galvanizing works													P	P						
Garbage, offal or dead animal reduction or dumping														P						Sec. 44-143
Gas manufacture														P						Sec. 44-143
Grain elevators													P	P						
Industrial transfer loading or storage													P	P						
Incineration of garbage or refuge													P	P						
Junkyards													P	P						
Laboratories: experimental, film, or testing, not producing noxious fumes or odors													P	P						
Lumber and planing mills when completely enclosed													P	P						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CND-MF	CND-SF	
Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products													P	P						
Manufacture or assembly of electrical appliances, electronic instruments and devices, radios, phonographs and television													P	P						
Manufacturing and repair of electric signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like													P	P						
Medical marijuana infused products manufacturing facility, with a majority of dollar volume of business done with walk-in trade												P	P	P						Sec. 44-144
Medical marijuana infused products manufacturing facility, with a majority of dollar volume of business not done with walk-in trade												P	P	P						Sec. 44-144

USES	DISTRICTS																Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Medical marijuana testing facility, entirely within enclosed building, with or without dispensary, with a majority of dollar volume of business done with walk-in trade												P	P	P						Sec. 44-144
Medical marijuana testing facility, entirely within enclosed building, with or without dispensary, with a majority of dollar volume of business not done with walk-in trade												P	P	P						Sec. 44-144
Metal plating, buffing and polishing													P	P						
Mini warehouses and self-storage facilities													P	P						
Paper or pulp manufacture														P						Sec. 44-143
Petroleum refining or the refining of its products														P						Sec. 44-143
Plumbing and sheet metal shops													P	P						
Photoengraving plants													P	P						
Poultry killing or dressing for commercial														P						Sec. 44-143
Produce markets, wholesale													P	P						
Radio, telephone and television towers and their attendant facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Railroad rights-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Recycling/non-auto salvage yard, if enclosed within an approved solid fence or wall at least eight feet in height, which must effectively screen the contents contained therein													P	P						
Research, design, and pilot or experimental project development													P	P						
Retail uses which have an industrial character in terms of either their activities or outdoor storage requirements such as, but not limited to: lumber yards, building materials outlets, upholsterers, and cabinet makers, and agricultural or construction equipment sales, rental, or repair													P	P						
Sale barns														P						Sec. 44-143
Salesrooms, yards and service for farm machinery, contractors' equipment and oil well supplies													P	P						
Smelting of tin, copper, zinc or iron ores														P						Sec. 44-143
Stables, public, or wagon sheds													P	P						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CND-SF	
Stockyards or slaughtering														D						Sec. 44-143
Storage and transfer, and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations, water supply and sewage disposal plants, water and propane tank holders, loading and storage facilities and off street vehicular parking													P	P						
Storage facilities for building materials, sand, gravel, stone, lumber and outdoor storage of contractor's equipment and supplies													P	P						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Storage in bulk of or warehouse for such materials as the following: Asphalt, brick, building materials, coal, cement, contractors' equipment, cotton, feed, fertilizer, gasoline, grain, gravel, grease, hay, ice, lead, lime, machinery, metals, oil, plaster, poultry, roofing, rope, sand, tar, tarred or creosoted products, terra cotta, timber, wood, all when incidental to sale at retail or for premises of constructing improvements on the premises													P	P						
Public or private storage lots for vehicles, trucks, buses, equipment													P	P						
The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas													P	P						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as, but not limited to: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semiprecious metals or stone, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns													P	P						
The manufacture, canning, preserving, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge, and machining shops provided that no metal stamping machines are employed													P	P						
Veterinary hospitals													P	P						

USES	*DISTRICTS*																		*Additional Conditions*
	R-1	*R-2*	*R-2-S*	*R-3*	*R-3-S*	*R-4*	*R-4-S*	*R-5*	*OP-1*	*C-1*	*CBD*	*C-3*	*M-1*	*M-2*	*CMD-SQ*	*CMD-G*	*CMD-C*	*CND-MF*	*CND-SF*	
Warehousing, wholesale distribution establishments, and truck terminal facilities													P	P						
Wholesale storage of gasoline and L.P. gas														P						Sec. 44-143
OFFICE AND SERVICE USES																				
Banks, credit unions, and savings and loan associations w/o drive through facilities									P	P	P	P	P	P						
Banks, credit unions, and savings and loan associations with drive through facilities									P	P	P	P	P	P						
Clinics, medical or dental offices with no more than three practitioners and no more than 2,400 square feet									P	P	P	P	P							
Clinics, medical or dental offices with more than three practitioners and more than 2,400 square feet										P	P	P	P							
Offices, business or professional									P	P	P	P	P	P						
RESIDENTIAL USES																				
Apartment hotels						P	P	P	P	P	P	P	P							Sec. 44-139
Boardinghouses and lodging-houses						P	P	P	P	P	P	P	P							
Communal houses	S	S	S	S	S	S	S	S	S	S	S	S	S	S						Sec. 44-138, Sec. 44-460

USES	DISTRICTS																Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Hospitals, sanitariums or homes for convalescents or aged						P	P	P	P	P	P	P	P							
Day care under ten children	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Home occupations	P	P	P	P	P	P	P	P	P	P	P	P	P							Sec. 44-129
Manufactured housing (doublewide), placed on a permanent foundation			P		P		P	P												
Mobile homes								P												
Multiple dwellings or apartment houses				P	P	P	P	P	P	P	P	P	P							Sec. 44-212(b)
Single family detached dwellings	P	P	P	P	P	P	P	P	P	P	P	P	P							
Senior housing		P	P	P	P	P	P	P	P	P	P	P	P							
Single-family detached dwelling serving as the living quarters of a watchman or caretaker of a multi-family development	P	P	P	P	P	P	P	P	P	P	P	P	P							
Single-family attached row houses				P	P	P	P	P	P	P	P	P	P							
Two-family dwellings		P	P	P	P	P	P	P	P	P	P	P	P							
Upper-story dwellings		P	P	P	P	P	P	P	P	P	P	P	P							
ACCESSORY, TEMPORARY AND OTHER USES																				
Accessory buildings and accessory uses customarily incidental to the permitted uses in this section																				
Agriculture	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Arbors or trellises	P	P	P	P	P	P	P	P	P	P	P	P	P	P						

USES	DISTRICTS																	Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CND-MF	CND-SF	
Awning or canopies	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Bodies of water including, but not limited to, ponds and lakes	S	S	S	S	S	S	S	S	S	S	S	S	S	S						
Chimneys projecting not more than three feet into and not exceeding two percent of the required front yard	P	P		P	P	P	P	P	P	P	P	P	P	P						
Detached buildings generally	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-132
Driveways leading to garages or off-street parking spaces located beyond the required front yard	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Fences or walls not exceeding four feet in height	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Flagpoles	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Garages generally	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-131
Hobby shop as an accessory use	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-137
Major recreational equipment	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-133

USES	DISTRICTS															Additional Conditions
	R-1	R-2	R-2-S	R-3	R-3-S	R-4	R-4-S	R-5	OP-1	C-1	CBD	C-3	M-1	M-2	CMD-SQ	CMD-G	CMD-C	CMD-MF	CMD-SF	
Nurseries, greenhouses and truck gardens limited to the propagation and cultivation of plants; provided, that no retail or wholesale business shall be conducted upon the premises; and provided, that no obnoxious soil or fertilizer renovation shall be conducted thereon	P	P	P	P	P	P	P	P						P						
Ornamental light standards not over 15 feet in height	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-134
Parking and storage of unlicensed vehicles	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-135
Private stables	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Satellite dish antennas	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Sidewalks	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Swimming pools	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-130
Temporary real estate offices	P	P	P	P	P	P	P	P	P	P	P	P	P	P						Sec. 44-136

USES	*DISTRICTS*															*Additional Conditions*
	R-1	*R-2*	*R-2-S*	*R-3*	*R-3-S*	*R-4*	*R-4-S*	*R-5*	*OP-1*	*C-1*	*CBD*	*C-3*	*M-1*	*M-2*	*CMD-SQ*	*CMD-G*	*CMD-C*	*CMD-MF*	*CMD-SF*	
Trees or shrubs	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Wireless telecommunication facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S						

(Code 1989, §§ 25-49, 25-52, 25-54, 25-56, 25-58, 25-60, 25-62, 25-84, 25-86, 25-88, 28-95, 28-97; Ord. No. 11029, §§ 8, 10, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11440, § 3, 3-20-2000; Ord. No. 11744, § 2, 2-6-2006; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017; Ord. No. 12315, § 1, 3-18-2019; Ord. No. 12334, § 1, 6-17-2019)

Sec. 44-127. Places of worship.

Churches or other places of worship used principally as a place of worship, shall be located in accordance with at least one of the following:

(1) On a lot already devoted to the use for which the building permit is requested;

(2) On a lot having a side line common to a public park, playground or cemetery, or directly across a street from any one or combination of such uses;

(3) On a corner lot having a minimum of 100 feet of frontage;

(4) On a lot three sides of which adjoin streets.

Sec. 44-128. Bed and breakfasts and temporary rental of a residence.

(a) *Special use permit.* The special use permit shall be issued in the name of the owner of the property, and is nontransferable. A special use permit application may be recommended for denial by the planning and zoning commission if more than 50 percent of property owners within 185 feet of the applicant's property have filed written protest of the application's approval.

(b) *Facility requirements.* Lodging rooms shall be located on the property within a structure that meets the most recently adopted International Residential Building Code's definition of a habitable space.

(c) *Number of guests and rooms.*

(1) Bed and breakfasts: A maximum of four persons shall be permitted as guests per lodging room.

(2) Temporary rental of a residence: A maximum of two persons shall be permitted as guests per lodging room. Visitors of temporary guests are permitted. The visitor to temporary guest ratio shall not exceed 1:1.

(d) *Parking.* See section 44-97(a)(4).

(e) *Meals and food.* The exchange of food for consumption from one party to another shall be subject to the county health department and comply with the county food ordinance.

(f) *Length of stay.* The maximum length of stay for a guest shall be no more than 31 calendar days.

(g) *Staff on site.* Bed and breakfasts must have staff or other representation on site during overnight hours, from 9:00 p.m. to 6:00 a.m.

(h) *Advertising.* The advertisement or offering for the temporary rental of lodging rooms or a residence without a special use permit is prohibited.

(i) *Tax and licensing.* The temporary rental of a lodging room shall be subject to applicable lodging taxes, sales taxes, business licensing regulations, and other taxes and licensing as applicable. See chapter 36 for more information.

(j) *Special event usage.* The property may be used for receptions, parties, weddings or similar activities when staff or other representation are present. For parking requirements, please see section 44-97.

(k) *Additional provisions.* The residence shall maintain a residential appearance and adhere to all applicable codes.

Sec. 44-129. Home occupations.

(a) The term "home occupation" means a gainful occupation or profession conducted entirely within a dwelling or in a structure accessory thereto or conducted in connection with a dwelling and carried on by the residents therein, provided that such occupation or profession is clearly incidental and secondary to the use of the dwelling for residential living purposes.

(b) Home occupations shall be subject to the following regulations and standards. Note: Home occupations must first make application for a license and obtain a permit for said occupation with the code enforcement director office.

(1) No article shall be sold or offered for sale on the premises, except such article as is

produced on the premises or is provided incidental to the service or profession conducted on the premises;

(2) There shall be no exterior storage of materials or equipment;

(3) There shall be no exterior indication of the home occupation, other than signs, and there shall be no variation from the residential character of the dwelling;

(4) No heat, glare, noise, vibration, noxious or toxic fumes, odors, vapors, gases or matter shall be produced at any time by any home occupation which can be readily detectable without the use of instruments at any point on the boundaries of the premises;

(5) The emission of smoke as specified in section 44-64 shall not be exceeded;

(6) No fissionable or radioactive materials shall be stored or used on the premises;

(7) Signs in connection with a home occupation shall:

a. Not be illuminated;

b. Not extend beyond lot lines;

c. Not exceed two square feet in area;

(8) The business shall not have more than one employee on the premises, other than members of the immediate family (family members must reside on the premises);

(9) Parking. Home occupations shall be required to construct off-street parking (according to the standards outlined in article III of this chapter) to accommodate their customers' needs. If there are customers using the business, then a minimum of two off-street parking spaces (over and beyond the parking that required for the main use) shall be required for each home occupation.

(Code 1989, § 25-50(a); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-130. Swimming pools.

An in-ground permanent swimming pool shall be allowed as an accessory use. It shall be located in the rear or side yard. It shall be placed not closer than five feet away from any side or rear lot line. On a corner lot, it shall not be closer than 15 feet to the side lot line abutting the street. A swimming pool shall be entirely enclosed by buildings, fences or walls not less than four feet in height. Such fences or walls shall be equipped with self-latching gates or doors, the latching device being located not less than four feet above the ground. All lighting of the pool areas shall be so hooded that the light does not shine toward abutting properties.

(Code 1989, § 25-50(b); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-131. Garages generally.

(a) *R-1, Single-Family District.* For any dwelling house there shall be permitted one private garage with space for not more than one motor vehicle for each 2,000 square feet of lot area.

(b) *R-2, Two-Family District.* A private garage may provide space for not more than one motor vehicle for each 1,500 square feet of lot area.

(c) *R-3, Multifamily District and R-4, General Residential District.* A private garage may provide space for not more than one motor vehicle for each 750 square feet of lot area.

(d) *Additional information.* Garages shall be located not less than three feet from any side lot line nor less than three feet from any alley line; except that, when the rear lot line is common to a side or rear lot line of another lot, such outbuilding shall be located a minimum of three feet from such lot line and in the case of corner lots not less than the distance required for residences from side streets. A garage constructed as an integral part of the main building shall be subject to the regulations affecting the main building; except that, on a corner lot, a private garage, when attached to the main building and not exceeding the height of the main building, may extend into the required rear yard to a point

not less than 18 feet from the rear lot line and shall not occupy more than 30 percent of the required rear yard. Any garage not attached to the main building must be a minimum of ten feet from the main building, measured at the closest point, not including eaves or overhangs.
(Code 1989, § 25-50(d); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-132. Detached buildings generally.

A detached accessory building shall not be allowed in the front yard. A detached accessory building shall not be located less than three feet from any side, rear, or alley lines. A detached accessory building not exceeding 24 feet or two stories in height, or in any case not higher than the main building, may occupy not more than 30 percent of a rear yard. If such building is not more than one story or 16 feet high, it may occupy 40 percent of a rear yard. A detached accessory building may be connected with the main building by a lightly constructed, covered passage, open on each side, not more than 12 feet high and six feet wide inside, and which is not an extension of the roof of the main building. Any accessory building not attached to the main building must be a minimum of ten feet from the main building, measured at the closest point, not including eaves or overhangs. No metal seagoing container may be used as an accessory building in any residentially zoned property or on any property used only for residential use, unless for a temporary use no longer than 30 days, unless an extension of time is approved by the code enforcement director of the city. For this temporary use, the owner or tenant must have a remodeling or other type permit from the city. Existing containers in place on the date of passage of this chapter will have one year to be removed from the site.
(Code 1989, § 25-50(e); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-133. Major recreational equipment.

For purposes of these regulations, the term "major recreational equipment" includes boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and similar uses, utility trailers, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport, enclosed building or behind the nearest portion of a building to a street, provided that such equipment may be parked anywhere on residential premises for not exceeding 24 hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.
(Code 1989, § 25-50(f); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-134. Parking and storage of unlicensed vehicles.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property, other than in completely enclosed buildings.
(Code 1989, § 25-50(g); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-135. Private stables.

A private stable shall be allowed on a lot having an area of more than 20,000 square feet, provided that it is located not less than 50 feet from the front line with no side line or rear line setbacks. On such lots there shall be sufficient land to provide proper care for all animals. A private stable shall provide one acre per lot area not be kept more than one per horse, pony, mule, bull, or cow and other livestock of similar size; one-fifth of an acre per lot area per goat, sheep, miniature horse and other livestock of similar size; and/or 25 fowl for each 10,000 square feet of lot area in addition to that area required for the dwelling or main building. No livestock, exclud-

ing fowl, shall be housed nearer than 50 feet from the front line and 30 feet from any side or rear lot line of such lot and shall be housed in a structure of sufficient size conducive to good sanitation and adequate drainage for the number of livestock to be housed. No fowl shall be housed nearer than 100 feet to the front lot line or 530 feet from any side or rear lot line of such lots. The number of animals allowed will be calculated by the square footage that remains inside the required setbacks. Fencing for livestock shall be required in the height, material, and type approved by the city manager, or designee. No barbed wire, single-strand fences, electric fences or fences otherwise deemed dangerous shall be permitted. Exception: Persons wishing to keep chickens for hobby or egg production for personal use on lots of less than 20,000 square feet, may do so under the following restrictions:

(1) Lots of less than 20,000 square feet may keep no more than eight chickens.

(2) No chickens may be kept in a front or side yard area. Chickens may be kept only behind the rear line of a house, the line being parallel to the street frontage.

(3) Chickens must remain in a coop or chicken wire fenced area, with access to shelter, and the area must be kept clean to ensure that odors are not noticeable outside of the property line.

(4) Chickens may be housed no closer than five feet to a side lot line, and no closer than ten feet to the rear lot line.

(5) No roosters are allowed.

(Code 1989, § 25-50(h); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-136. Temporary real estate offices.

A temporary real estate office shall be permitted and located in developments where the developer is promoting and selling those properties within the development. The office shall be located within a marketable unit.

(Code 1989, § 25-50(i); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-137. Hobby shops.

A hobby shop may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation, provided that such use shall not be obnoxious or offensive, by reason of vibration, noise, odor, dust, smoke or fumes, and meet all home occupations provisions as provided by this article.

(Code 1989, § 25-50(j); Ord. No. 11029, § 8, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 6, 4-20-2015; Ord. No. 12252, § 1, 7-17-2017)

Sec. 44-138. Communal houses.

Communal houses are subject to the following conditions:

(1) Site-buffering around the building perimeter in the form of shrubbery, private fencing or other landscaping methods approved by the code official.

(2) All social activity shall be contained within the building after 12:00 midnight.

Sec. 44-139. Apartment hotels.

There shall be permitted such facilities as are required for the operation of an apartment hotel, when conducted and entered from within the building, provided that no window or display or sign on the exterior of the building shall be used to advertise such use.

Sec. 44-140. Shops for custom work or manufacture.

Shops for custom work or manufacture of articles to be sold at retail only on the premises shall be permitted, provided that in such manufacture the total mechanical power shall not exceed five horsepower for the operation of any one shop; and provided that the space occupied by the manufacturing use permitted herein shall not exceed 50 percent of the total floor area of the entire building or the equivalent of the ground floor area thereof; and provided further that such manufacturing use is not noxious or offensive, by reason of vibration, noise, odor, dust, smoke or gas.

Sec. 44-141. Shooting galleries and similar commercial recreation buildings or activities.

Such uses shall be not less than 100 feet from any existing clinic, hospital, school or church; and shall not be less than 100 feet from districts R-1, R-2, R-2-S, R-3, R-3-S, R-4, or R-4-S, unless approved by the board under such restrictions as seem appropriate after consideration of noise and other detrimental factors incidental to such use.

Sec. 44-142. Storage warehouses.

Storage in bulk of or warehouse for such materials as the following: clothing, drugs, dry goods, food, furniture, glass, groceries, hardware, household goods, liquor, lubricating oil, millinery, paints, paint materials, pipe, rubber, shop supplies, tobacco, turpentine and varnish, wines and when incidental to sale at retail on the premises.

Sec. 44-143. Heavy industrial uses.

M-2, Heavy Industrial land uses shall be permitted only by approval of the city council, after report from the county health department, fire department, and the planning and zoning commission.

Sec. 44-144. Medical marijuana uses.

(a) *Compliance with state law.* Uses shall remain in compliance with section 1 of article XVI of the state constitution.

(b) *Proximity of facilities.*

(1) Medical marijuana facilities are prohibited within set distances listed below from any elementary or secondary school, day care, church, or other building regularly used as a place of religious worship, except when the aforementioned uses establish themselves within the prohibited distance, existing medical marijuana facilities may remain. The prohibited distance shall be measured in a straight line from the outer walls of the medical marijuana facility or the edge of the outdoor cultivation site to the outer walls of any elementary or secondary school, day care, church, or other building regularly used as a place of religious worship.

(2) The set distances medical marijuana facilities need to remain away from any elementary or secondary school, day care, church, or other building regularly used as a place of religious worship shall be as follows:

a. Medical marijuana dispensary facility: Zero feet.

b. Medical marijuana cultivation facility: 300 feet.

c. Medical marijuana-infused products manufacturing facility: 300 feet.

d. Medical marijuana testing facility: 300 feet.

e. Any combination of the above listed facilities: 300 feet.

(c) *Signage.* In addition to the sign regulations located in article XIII of this chapter, the following shall apply to signage for medical marijuana facilities:

(1) Facilities shall not use signage or advertising with the term "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the term "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols.

(2) Facilities shall not advertise in a manner that is inconsistent with the medicinal use of medical marijuana or use advertisements that promote medical marijuana for recreational or any use other than for medicinal purposes.

(Ord. No. 12315, § 1(24-142(a)—(c)), 3-18-2019)

Secs. 44-145—44-169. Reserved.

ARTICLE V. ZONING DISTRICT STANDARDS

DIVISION 1. GENERALLY

Secs. 44-170—44-188. Reserved.

DIVISION 2. YARDS GENERALLY AND SPECIFIC BUILDING HEIGHTS

Sec. 44-189. Generally.

The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards, rear yards and other regulations and requirements as set forth in this chapter shall be subject to the following exceptions and additional regulations of this division.
(Code 1989, § 25-42; Ord. No. 11296, 6-16-1997)

Sec. 44-190. Yard requirements generally.

This section outlines the general requirements for yards. Building setback requirements for each specific zone can be found in additional sections of this article.

(1) *Front yard.*

a. *Residential zones.* No less than 60 percent of the front yard shall be greenspace, excluding pedestrian pathways or decorative yard elements. In cases where two driveways can be located in the front yard setback of interior lots without alley access, the 60 percent greenspace requirement need not apply.

b. *Central business district zone.* Buildings containing a land use that is exclusively residential in this zone are required to have a front yard. No less than 60 percent of the front yard shall be greenspace, excluding pedestrian pathways or decorative yard elements. In cases where two driveways can be located in the front yard setback of interior lots without alley access, the 60 percent greenspace requirement need not apply.

c. *Office, commercial, and industrial zones.* Buildings containing a land use that is exclusively residential in these zones are required to have a front yard. No less than 60 percent of this front yard shall be greenspace, excluding pedestrian pathways or decorative yard elements. In cases where two driveways can be located in the front yard setback of interior lots without alley access, the 60 percent greenspace requirement need not apply.

(2) *Side yard.*

a. *Residential zones.* A side yards fronting a street on a corner lot shall be filled with greenspace, excluding pedestrian pathways or decorative yard elements, from the front building line to at least 25 feet beyond the front building line.

b. *Central business district zone.* For areas outside the defined central business district, a side yard fronting a street on a corner lot shall be filled with greenspace, excluding pedestrian pathways or decorative yard elements, from the front building line to at least 25 feet beyond the front building line.

c. *Office, commercial, and industrial zones.* Buildings containing a land use that is exclusively residential in these zones are required to have side yards. A side yard fronting a street on a corner lot shall be filled with greenspace, excluding pedestrian pathways or decorative yard elements, from the front building line to at least 25 feet beyond the front building line.

d. *Variances.* In any district where buildings or adjoining lots, used exclusively for dwelling purposes, do not conform to the side yard

requirements of this division, the city council may vary the side yard requirements, after receiving a recommendation from the planning and zoning commission, provided that no building may be built nearer than three feet to the side lot line; and provided that the width of the building allowable under the regulations of this article shall not be increased.

(3) *Rear yard.*

a. No rear yard shall be required in districts C-1, CBD, C-3, M-1 and M-2 on any lot used for business or industrial purposes, the rear line of which adjoins a railway right-of-way or which has a rear railway track connection.

b. In computing the depth of a rear yard for any building where such yard abuts an alley, one-half of such alley may be assumed to be a portion of the rear yard.

c. In computing the depth of a rear yard for residential purposes and the rear yard abuts an abandoned railroad right-of-way, one-half of the railroad right-of-way may be used.

(4) *Projections, uses, etc., in required yards.*

a. *Projections generally.* Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves, provided that none of the above projections shall extend into a court more than six inches, nor into a minimum yard more than 24 inches; and provided further that canopies of open porches or decks having a roof area not exceeding 60 square feet may project a maximum of 15 feet into a required front or rear yard. Open paved patios or decks without roofs may extend to within three feet of any side or rear lot line.

b. *Fire escapes, balconies and stairways.* Balconies may project not more than six feet into any yard. Excluding commercial and mixed-use buildings at least 50 years of age, new fire escapes and exterior staircases descending from the second floor or above shall be designed and built into the building's footprint and roofline.

c. *Terrace garages.* A terrace garage in district R-1, R-2, R-2-S, R-3, R-3-S, R-4, or R-4-S may be located in a front or side yard, provided that it is completely recessed into the terrace and that the height of the terrace is sufficient to cover and conceal the structures from above; and provided further that the doors, when open, shall not project beyond any property line and that the structures be set back at least four feet from the front lot line.

d. *Sight distance on corner lots.* All corner lots located on intersections without an all-way stop shall provide a sight distance triangle in both directions, the short leg of which shall be 20 feet, and the long leg of which shall be 140 feet measured along the curbline or edge of the pavement. Such area shall be and remain free of shrubbery, fences and other obstructions.

(5) *Accommodating streets.* Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the depth or width of a yard shall be measured from such official line to the nearest line of the building.

(6) *Other regulations.* In districts R-1, R-2, R-2-S, R-3, R-3-S, R-4, and R-4-S, where lots comprising 40 percent or more of the frontage, on the same side of a street between two intersecting streets, excluding reverse corner lots, are developed

with buildings having front yards with a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage; except that, where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of this chapter, yet is less than the established setback for the block as provided above, such setback line shall apply, provided that the city council, after receiving a recommendation by the planning and zoning commission, may permit variations in case of hardship or where the configuration of the ground is such as to make conformity with the front yard requirements impractical.

(Code 1989, §§ 25-45—25-48; Ord. No. 11029, § 7, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 5, 4-20-2015)

Sec. 44-191. Height of specific structures.

(a) *Apartment houses or public or semipublic buildings.* In any district, apartment houses or public or semipublic buildings, such as hospitals, hotels, churches, sanitariums or schools, either public or private, where permitted, may be erected to a height not to exceed 150 feet, provided that such buildings shall have yards the depth or width of which shall be increased one foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.

(b) *Dwellings in R-1 or R-2 districts.* Dwellings in districts R-1, R-2 and R-2-S may be increased in height not exceeding ten feet in addition to the limitations of 2½ stories, or 35 feet, as prescribed in such districts, provided that two side yards of not less than 15 feet in width each are provided. In no case shall such dwelling exceed three stories in height.

(c) *Parapet walls, flagpoles, chimneys, etc.* Parapet walls and false mansards shall not extend more than six feet above the height limit. Flagpoles, chimneys, cooling towers, electric display signs, elevator bulkheads, penthouses, finials, gas tanks, grain elevators, stacks, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and necessary mechanical appurtenances may be erected to a height in accordance with present or future provisions of this Code or other ordinances of the city.

(d) *Through lots.* On through lots 125 feet or less in depth, the height of a building may be measured from the curb level of either street. On through lots of more than 125 feet in depth, the height regulations for the street permitting the greater height shall apply to a depth of not more than 125 feet from that street.

(e) *Areas near airports.*

(1) In the vicinity of an airport no building or structure shall be erected in any area under any approach or transition plane or turning zone, as defined hereafter, any portion of which building or structure intrudes into such plane or zone; except that this shall not prohibit the erection of buildings or structures to a total height of not over 35 feet. No land shall be used in any area under an approach or transition plane within 10,000 feet of the reference point of the airport for the erection of places of public assembly or concentration of population, such as churches, schools, theaters or hospitals.

(2) An approach plane is an area commencing at a line of 200 feet from the end of an active runway on an airport. From this point, the approach plane rises upward on a plane surface at the ratio of one foot vertical rise for every 50 feet of horizontal distance. This plane is bounded by lines commencing at the 200-foot mark previously mentioned 500 feet on each side of the continuation of the centerline of the runway mentioned above, and these lines continue along such plane gradually extending outward, so that at a distance of 10,000 feet the lines are 2,000 feet distant on each side of the extended centerline of the runway; and at 50,000

feet they are extended to a point 8,000 feet distant on each side of the extended centerline of the runway.

(3) A transition plane begins at the flared sides of the approach plane on a slope outward of one foot in height for each seven feet of horizontal distance.

(4) A turning zone is a plane of 150 feet above the designated reference point on the landable area and extending in all directions to a distance of 20,000 feet from this reference point. Landable area is the area of the airport used for the landing, takeoff or taxiing of aircraft.

(5) No limitations on height shall be required beyond the limits of 20,000 feet from the designated reference point, except within the approach and transition planes.

(f) *Mixed uses.*

(1) For any building used jointly for business and dwelling purposes or industry and dwelling purposes, except in district CBD, the number of families permitted by the lot area requirements per family shall be reduced in the same proportion as the floor area devoted to business or industry bears to the entire floor area of the building, provided that floor area below the first floor of such buildings shall not be included in any calculation under this provision.

(2) For any building providing jointly for hotel and apartment uses, except for district CBD, the number of families permitted in apartments by the lot area requirements per family shall be reduced in the same proportion as the total floor area devoted to hotel or non-housekeeping rooms bears to the total floor area devoted to both uses.

(Code 1989, §§ 25-43, 25-44; Ord. No. 11296, 6-16-1997)

Secs. 44-192—44-209. Reserved.

DIVISION 3. ZONING DISTRICT SETBACK AND DESIGN STANDARDS

Sec. 44-210. District R-1, Single-Family Residential District.

In district R-1, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:

(1) *Height.* Buildings or structures shall not exceed 35 feet and shall not exceed 2½ stories.

(2) *Front yards.* Any building hereafter constructed shall provide for a front yard, the minimum depth of which shall be at least 20 percent of the depth of the lot, but the depth of such front yard need not be more than 20 feet. Structures on newly platted residential lots fronting upon arterials shall provide a minimum front yard setback of at least 50 feet. Buildings containing a land use that is exclusively residential in applicable zones are required to have a front yard. No less than 60 percent of this front yard shall be greenspace, excluding pedestrian pathways or decorative yard elements. In cases where two driveways can be located in the front yard setback of interior lots without alley access, the 60 percent greenspace requirement need not apply.

(3) *Side yards.*

a. There shall be a side yard on each side of a building not less than ten percent of the width of the lot; except that such side yards shall not be less than seven feet and need not be more than 15 feet. For areas outside the defined central business district and buildings containing a land use that is exclusively residential, a side yard fronting a street on a corner lot shall be filled with greenspace, excluding pedestrian pathways or decorative yard elements, from the front building line to at least 25 feet beyond the front building line.

b. Buildings on corner lots, where interior lots have been platted or sold fronting on the side street, may project not more than ten feet in front of the line established for buildings by the front yard requirements for the interior lots on the side street, provided that this regulation shall not be so interpreted as to reduce the buildable width of a corner lot in separate ownership on December 18, 1972, to less than 28 feet; and provided further that the side yard regulations above shall be observed.

(4) *Rear yards.* The depth of the rear yard shall be at least 30 percent of the depth of the lot, but such depth need not be more than 30 feet.

(5) *Width of lot.* The minimum width of a lot shall be 50 feet, provided that where a lot of record has less width than herein required on December 18, 1972, this regulation will not prohibit the erection of a dwelling. In no case shall a building be located on such lot of less than 50 feet in width without providing yard area as required in this section and without providing at least 14 feet of open space between such building and any adjacent building.

(6) *Lot area per family.* Every dwelling hereafter erected or altered shall provide a lot area of not less than 7,500 square feet per family, provided that where a lot of record has less area than herein required on December 18, 1972, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than 15,000 square feet per family.

(7) *Size of dwelling.* Every dwelling hereafter erected, constructed, reconstructed or altered in a district R-1 shall have a floor area, excluding basements, open and screened porches and garages, of not less than 750 square feet for each dwelling unit.

(8) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(9) *Building orientation.* The primary building shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary building shall include at least one ground level main entrance oriented to the front of the lot. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly.

(Code 1989, app. A, § 25-51; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1(25-51), 4-16-2018)

Sec. 44-211. District R-2, Two-Family Residential District and R-2-S, Two-Family Special Residential District.

In district R-2, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:

(1) *Height.* Same as district R-1.

(2) *Front yards.* Same as district R-1.

(3) *Side yards.* Same as district R-1, including regulations for corner lots adjacent to reversed frontage.

(4) *Rear yards.* Same as district R-1.

(5) *Width of lot.* Same as district R-1.

(6) *Lot area per family.* Every dwelling hereafter erected or altered shall provide a lot area for one-family dwellings the same as in district R-1, and for two-family dwellings the lot area shall be 3,750 square feet per family, provided

that where a lot of record has less area than herein required on December 18, 1972, this regulation shall not prohibit the erection of a one- or two-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than 15,000 square feet per family.

(7) *Size of dwelling.* Every two-family dwelling hereafter erected, constructed, reconstructed, or altered in a district R-2, shall have a minimum floor area of 650 square feet. All one-family dwellings shall have a minimum floor area of 750 square feet.

(8) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(9) *Building orientation.* Primary buildings shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary buildings shall include at least one ground level main entrance oriented to the front of the lot. Where there are multiple, primary buildings on a single lot, each primary building with a street facing facade must have at least one ground level main entrance oriented to the street and addressed accordingly. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly.

(Code 1989, app. A, §§ 25-53, 25-55; Ord. No. 11296, 6-16-1997)

Sec. 44-212. District R-3, Multifamily Residential District and R-3-S, Multifamily Special Residential District.

In district R-3, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:

(1) *Height.* Buildings or structures shall not exceed 45 feet and shall not exceed three stories in height.

(2) *Front yards.* The depth of the front yard shall be at least 15 feet, but no greater than the average block setback. No less than 60 percent of the front yard shall be greenspace, excluding pedestrian pathways or decorative yard elements. In cases where two driveways can be located in the front yard setback of interior lots without alley access, the 60 percent greenspace requirement need not apply.

(3) *Side yards.* Same as district R-1, including regulations for corner lots adjacent to reversed frontage provided the width shall be increased one foot for each foot of height of building above 35 feet.

(4) *Rear yards.* The depth of the rear yard shall be at least 30 feet.

(5) *Width of lot.* Same as district R-1.

(6) *Lot area per family.* Dwellings hereafter erected or altered for multiple-family dwellings shall be a minimum of 1,200 square feet per family, provided that where a lot of record has less area than herein required in single ownership on December 18, 1972, this regulation shall not prohibit the erection of a one- or two-family dwelling; and further provided that for large parcels that are developed and that are owned by a single ownership, more than one dwelling on the tract shall be permitted as long as the front, side and rear yards on the exterior perimeter of said projects meet the regulations of this chapter. All buildings and premises are to be maintained by the owner.

(7) *Size of dwelling.* Every one- or two-family dwelling hereafter erected, constructed, reconstructed or altered in a district R-3 shall have a floor area as required in district R-2.

(8) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(9) *Building orientation.* Same as district R-2.

(Code 1989, app. A, §§ 25-57, 25-59; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12277, § 1(25-57), 4-16-2018)

Sec. 44-213. District R-4, General Residential District and R-4-S, General Special Residential District.

In district R-4, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows:

(1) *Height.* Same as district R-3.

(2) *Front yards.* Same as district R-3.

(3) *Side yards.* Same as district R-3.

(4) *Rear yards.* Same as district R-3.

(5) *Width of lot.* Same as district R-1.

(6) *Lot area per family.* Same as district R-3.

(7) *Size of dwelling.* Same as district R-3.

(8) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(9) *Building orientation.* Same as district R-2.

(Code 1989, §§ 25-61, 25-63; Ord. No. 11296, 6-16-1997; Ord. No. 12277, § 1(25-61), 4-16-2018)

Sec. 44-214. District OP-1, Planned Office District.

The intention of uses permitted in this district shall allow development of various low intensity service orientated establishments near residential uses which will not interfere with said uses. A great deal of emphasis shall be placed on planning for green areas, landscaping and site buffering. Exterior lighting shall be minimal with only lighting to ensure security and safety of the complex and neighbors. All requirements of planned zoning shall apply. Prevailing historic and architectural character should be maintained, remodeling and new construction should conform to pre-existing characteristics. In addition, the following shall be required:

(1) Existing structures shall maintain their historic character that is prevalent prior to change in use.

a. Parking required: refer to section 44-97(a)(11).

(2) New construction shall be limited to the following requirements and conditions:

a. No metal buildings;

b. Brick or brick veneer on front and side street elevations, or other architectural style that is compatible with adjoining uses;

c. Lot size shall be a minimum of 8,000 square feet. Lot width shall be a minimum of 80 feet;

d. The ratio of building to lot size shall be no more than 40 percent coverage;

e. Parking: refer to article III of this chapter;

f. Setbacks, same as district C-1, Local Business District;

g. For any commercial or industrial property with a business license, sea-going containers may be used for a permanent building only in the rear of the main commercial structure, or may be located at the side of the structure if placed behind privacy fencing that screens the container from view from the front of the property. The structures may be located in any commercial area for a temporary use for storage of materials during a remodeling or other project if the use is no longer

than 60 days. For the temporary use of these buildings, the owner or tenant must have a remodeling or other type permit from the city. Existing containers in place on the date of passage of this section that do not comply with the section will have one year to comply with the fencing requirement or to be removed from the site. A business that rents or sells sea-going containers that is located in an M-2 industrial zone is not required to comply with the location or fencing requirements;

h. Building orientation. Same as district R-2.

(Code 1989, app. A, § 25-81; Ord. No. 12157, § 7, 4-20-2015)

Sec. 44-215. District C-1, Local Business District.

In a district C-1, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot, shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of district R-4:

(1) *Height.* Buildings or structures shall not exceed 35 feet and shall not exceed 2½ stories; except that where a district C-1 joins district R-3, R-3-S, R-4, R-4-S, R-P, O-1P, CBD, C-3, M-1 or M-2 within the same block, the height shall be increased to 45 feet or three stories within that block.

(2) *Front yards.* Same as district R-1, provided that where established buildings in this district within the same block have front yards of less depth than required, it may be allowed to reduce the required depth.

(3) *Side yards.* No side yard is required; except that where a side line of a lot in this district abuts upon the side line of a lot in district R-1, R-2, R-2-S, R-3, R-3-S, R-4, or R-4-S, a side yard of not less than five feet shall be provided. If there is no public access to the rear yard, by way of an alley or street, then there shall be a service drive with a minimum width of ten feet provided in one side yard.

(4) *Rear yards.* The depth of the rear yard shall be, at least, 15 percent of the depth of the lot, but such depth need not be more than 20 feet; except that on a corner lot no rear yard is required within 50 feet of a side street, unless the rear line adjoins district R-1, R-2, R-2-S, R-3, R-3-S, R-4, or R-4-S.

(5) *Width of lot.* The minimum width of a lot shall be 50 feet, if used exclusively for uses enumerated in district R-1, R-2, R-2-S, R-3, R-3-S, R-4, or R-4-S, except as otherwise provided in district R-1. For other uses, the width may be less than the requirement of this subsection.

(6) *Lot area per family.* Same as district R-3.

(7) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(Code 1989, app. A, § 25-85; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007; Ord. No. 12157, § 8, 4-20-2015)

Sec. 44-216. District CBD, Central Business District.

In district CBD, the height of the buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows, provided that buildings erected for dwelling purpose exclusively shall comply with the front, side and rear yard requirements of district R-4.

(1) *Height.* Buildings or structures shall not exceed 150 feet and shall not exceed nine stories in height.

(2) *Front yards.* No front yard is required; however, the front yard shall be no greater than the average block setback. Where a portion of a district CBD lies within the same block and fronts upon the same streets with a portion of a district R-1 to C-1, inclusive, and no lot with such district CBD is occupied by a building with a front yard of less depth than required in

that portion of district R-1 to C-1, inclusive, adjoining, then in such case the front yard requirements of such adjoining district R-1 to C-1, inclusive, shall likewise be applicable to such portions of district CBD.

(3) *Side yards.* Same as district C-1.

(4) *Rear yards.* No rear yard required.

(5) *Width of lot.* Same as district C-1.

(6) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(7) *Building orientation.* Same as district R-2.

(8) *Facade transparency.* Buildings shall maintain a minimum level of transparency on the ground and upper stories for street fronting facades. All windows must be transparent, non-reflective glass. Solid walls facing a street are prohibited.

a. Ground floor nonresidential uses shall maintain a minimum of 15 percent facade transparency, measured between two feet and eight feet above the sidewalk.

b. Ground floor residential uses shall maintain a minimum of eight percent facade transparency, measured between two feet and eight feet above the sidewalk.

c. Upper floor nonresidential uses shall maintain a minimum of 15 percent facade transparency, measured from floor to floor.

d. Upper floor residential uses shall maintain a minimum of 15 percent transparency, measured from floor to floor.

(Code 1989, app. A, § 25-87; Ord. No. 11296, 6-16-1997)

Sec. 44-217. District C-3, Extensive Business District.

In district C-3, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lots shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front side and rear yard requirements of district R-4:

(1) *Height.* Same as district C-1.

(2) *Front yards.* Same as district C-1.

(3) *Side yards.* Same as district C-1.

(4) *Rear yards.* Same as district C-1.

(5) *Width of lot.* Same as district C-1.

(6) *Lot area per family.* Same as district R-4.

(7) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(Code 1989, app. A, § 25-89; Ord. No. 11296, 6-16-1997)

Sec. 44-218. District M-1, Light Industrial District.

In district M-1, the height of buildings, minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows, provided that buildings erected for dwelling purposes exclusively shall comply with the front, side and rear yard requirements of district R-4:

(1) *Height.* Buildings or structures shall not exceed 100 feet.

(2) *Front yards.* Same as district C-1.

(3) *Side yards.* Same as district C-1.

(4) *Rear yards.* Same as district C-1.

(5) *Width of lots.* Same as district C-1.

(6) *Lot area per family.* Same as district R-4.

(7) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(Code 1989, app. A, § 25-96; Ord. No. 11296, 6-16-1997)

Sec. 44-219. District M-2, Heavy Industrial District.

In district M-2, the height of buildings and the minimum dimensions of lots and yards shall be as follows:

(1) *Height.* Same as district M-1.

(2) *Front yards.* Any building hereafter constructed shall provide for a front yard, the minimum depth of which shall be as follows:

a. Where the lot abuts a federal or state highway, the minimum front yard depth shall be 60 feet;

b. Where the lot abuts a major street, the minimum front yard depth shall be 50 feet;

c. Where the lot abuts a local or private street, the minimum front yard depth shall be 30 feet;

d. Where the lot abuts a street with a right-of-way width of less than 60 feet, the minimum front yard depth shall be 60 feet from the centerline of such right-of-way.

(3) *Side and rear yards.*

a. There shall be a side yard on each side of a building not less than 30 feet.

b. The depth of the rear yard shall be a minimum of 30 feet.

c. Detached accessory buildings shall be placed in the rear or side yard, and shall be placed not closer than 15 feet to any lot line.

(4) *Protective buffer.* The following regulations and standards shall apply to a lot on which an industrial use shall be located:

a. Where such lot abuts or adjoins any residential or commercial district, a protective buffer of not less than 40 feet in width shall be provided, and:

1. Shall be located on such lot on the side of such lot abutting the residential or commercial district;

2. Shall be parallel to and adjacent to the lot line of such lot facing the residential or commercial district;

3. Shall be maintained with a screen planting, including trees and shrubs, of sufficient height and thickness to minimize both view and noise, except where such protective buffer parallels the front lot lines of such lot, in which case screen planting shall not be required;

b. The protective buffer, where it is located so as to be in a side yard, may be used as the sale yard minimum requirements.

(5) *Width of lot.* No minimum requirements.

(6) *Parking regulations.* See article III of this chapter for off-street parking and loading regulations.

(Code 1989, app. A, § 25-98; Ord. No. 11296, 6-16-1997)

Secs. 44-220—44-233. Reserved.

ARTICLE VI. CENTRAL ZONING DISTRICTS

DIVISION 1. GENERALLY

Secs. 44-234—44-249. Reserved.

DIVISION 2. DISTRICT CMD-SQ, CENTRAL MIXED DISTRICT, SQUARE

Sec. 44-250. Permitted uses.

See the permitted use table in article V of this chapter.

Sec. 44-251. Setbacks.

(a) *Front yard.*

(1) Minimum: Zero feet.

(2) Maximum: Zero feet.

(b) *Side yard.*

(1) Minimum: Zero feet.

(2) Maximum: Zero feet.

(c) *Rear yard.*

(1) Minimum: Zero feet.

(2) Maximum: 20 feet.

Sec. 44-252. Building height.

(a) *In stories.*

(1) Minimum: Two stories.

(2) Maximum: Three stories.

(b) *In feet.*

(1) Minimum: 30 feet.

(2) Maximum: 45 feet.

Sec. 44-253. Roof styles.

Roof styles for any new or existing buildings in the CMD-SQ district shall be consistent with majority of the buildings in the zoning district. Pitched or gable style roofs and their subtypes are only allowed when the height of a building's street fronting facades are greater than or equal to the pitch of the roof to where the pitch is mostly concealed by the street fronting facades and mostly hidden from public view.

Sec. 44-254. Facade materials.

Natural building materials such as brick, stone, and other similar materials are preferred. EIFS or other similar material is also permitted. Metal may be used on the second floor and above as long as it does not cover more than 20 percent of the total wall area of any facade and its use is prohibited on the ground floor facade. Concrete block or similar masonry units (including CMU block) and wood is prohibited unless covered with a veneer of natural building materials. Vinyl siding is prohibited.

Sec. 44-255. Facade transparency.

Street fronting building facades shall maintain a minimum level of transparency on the ground and upper stories. All windows must be transparent, non-reflective glass. Solid walls facing a street are prohibited.

(1) Ground floor nonresidential uses shall maintain a minimum of 70 percent facade transparency, measured between two feet and eight feet above the sidewalk.

(2) Upper floor nonresidential uses shall maintain a minimum of 40 percent facade transparency, measured from floor to floor.

(3) Upper floor residential uses shall maintain a minimum of 40 percent transparency, measured from floor to floor.

Sec. 44-256. Building width.

Buildings shall be subdivided into facades no greater than 30 feet in width along the building's axis facing the street. Building facades shall be defined by vertical articulations such as changes in wall plane, vertical projections, materials, or other methods. For commercial and retail uses, each facade shall have a minimum of one building entrance and building entrances shall be spaced not more than 40 feet apart. For office uses, a minimum of one building entrance is required for each 75 feet in width along the building's axis facing the street.

Sec. 44-257. Building orientation.

Primary buildings shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary building shall include at least one ground level main entrance oriented to the front of the lot. Where there are multiple, primary buildings on a single lot, each primary building with a street facing facade must have at least one ground level main entrance oriented to the street and addressed accordingly. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly. Each unit or building

subdivision, including upper-story units or areas, shall have a ground level, main entrance located along the front facade.

Sec. 44-258. Parking.

Please see article III of this chapter for off-street parking and loading regulations.

Sec. 44-259. Residential dwelling units.

Residential dwelling units shall be located on floors above nonresidential uses. No nonresidential use may be located on a floor above a residential dwelling use, and residential and nonresidential uses located on the same floor shall be designed such that the hallways of entrances providing access to the different use areas of the building are physically separated. Residential uses are not permitted on the ground floor.

Secs. 44-260—44-279. Reserved.

DIVISION 3. DISTRICT CMD-G, CENTRAL MIXED DISTRICT, GENERAL

Sec. 44-280. Permitted uses.

See the permitted use table in article V of this chapter.

Sec. 44-281. Setbacks.

(a) *Front yard.*

(1) Minimum: Zero feet.

(2) Maximum: Five feet.

(b) *Interior side yard.*

(1) Minimum: Zero feet.

(2) Maximum: 14 feet.

(c) *Exterior side yard.*

(1) Minimum: Zero feet.

(2) Maximum: Zero feet.

(d) *Rear yard.*

(1) Minimum: Zero feet.

(2) Maximum: 20 feet.

Sec. 44-282. Building height.

(a) *In stories.*

(1) Minimum: One story.

(2) Maximum: Five stories.

(b) *In feet.*

(1) Minimum: 30 feet.

(2) Maximum: 75 feet.

Sec. 44-283. Facade materials.

Natural building materials such as brick, stone, and other similar materials are preferred. EIFS or other similar material is also permitted. Metal may be used on the second floor and above as long as it does not cover more than 20 percent of the total wall area of any facade and its use is prohibited on the ground floor facade. Concrete block or similar masonry units (including CMU block) and wood is prohibited unless covered with a veneer of natural building materials. Vinyl siding is prohibited.

Sec. 44-284. Facade transparency.

Street fronting building facades shall maintain a minimum level of transparency on the ground and upper stories. All windows must be transparent, non-reflective glass. Solid walls facing a street are prohibited.

(1) Ground floor nonresidential uses shall maintain a minimum of 70 percent facade transparency, measured between two feet and eight feet above the sidewalk.

(2) Upper floor nonresidential uses shall maintain a minimum of 25 percent facade transparency, measured from floor to floor.

(3) Upper floor residential uses shall maintain a minimum of 25 percent transparency, measured from floor to floor.

Sec. 44-285. Building width.

Buildings shall be subdivided into facades no greater than 30 feet in width along the building's axis facing the street. Building facades shall be defined by vertical articulations such as changes in wall plane, vertical projections, materials, or other methods. For commercial and retail uses,

each facade shall have a minimum of one building entrance and building entrances shall be spaced not more than 40 feet apart. For office uses, a minimum of one building entrance is required for each 75 feet in width along the building's axis facing the street.

Sec. 44-286. Building orientation.

Primary buildings shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary building shall include at least one ground level main entrance oriented to the front of the lot. Where there are multiple, primary buildings on a single lot, each primary building with a street facing facade must have at least one ground level main entrance oriented to the street and addressed accordingly. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly. Each unit or building subdivision, including upper-story units or areas, shall have a ground level, main entrance located along the front facade.

Sec. 44-287. Parking.

Please see article III of this chapter for off-street parking and loading regulations.

Sec. 44-288. Residential dwelling units.

Residential dwelling units shall be located on floors above nonresidential uses. No nonresidential use may be located on a floor above a residential dwelling use, and residential and nonresidential uses located on the same floor shall be designed such that the hallways of entrances providing access to the different use areas of the building are physically separated. Residential uses are not permitted on the ground floor.

Secs. 44-289—44-304. Reserved.

DIVISION 4. DISTRICT CMD-C, CENTRAL MIXED DISTRICT, CORRIDOR

Sec. 44-305. Permitted uses.

See the permitted use table in article V of this chapter.

Sec. 44-306. Setbacks.

(a) *Front yard.*

(1) Minimum: Five feet.

(2) Maximum: Average block setback or 15 feet, whichever is less.

(b) *Interior side yard.*

(1) Minimum: Zero feet.

(2) Maximum: 14 feet.

(c) *Exterior side yard.*

(1) Minimum: Zero feet.

(2) Maximum: Zero feet.

(d) *Rear yard.*

(1) Minimum: Zero feet.

(2) Maximum: 40 feet.

Sec. 44-307. Building height.

(a) *In stories.*

(1) Minimum: Two stories.

(2) Maximum: Five stories.

(b) *In feet.*

(1) Minimum: 30 feet.

(2) Maximum: 75 feet.

Sec. 44-308. Facade transparency.

Street fronting building facades shall maintain a minimum level of transparency on the ground and upper stories. All windows must be transparent, non-reflective glass. Solid walls facing a street are prohibited.

(1) Ground floor nonresidential uses:

a. Facades with entrance: Minimum of eight percent facade transparency, measured from floor to floor.

b. Facades without entrance: Minimum of 15 percent facade transparency, measured from floor to floor.

(2) Ground floor residential uses shall maintain a minimum of 15 percent facade transparency, measured between two feet and eight feet above the sidewalk.

(3) Upper floor nonresidential uses shall maintain a minimum of 15 percent facade transparency, measured from floor to floor.

(4) Upper floor residential uses shall maintain a minimum of 15 percent transparency, measured from floor to floor.

Sec. 44-309. Building width.

Buildings shall be subdivided into facades no greater than 30 feet in width along the building's axis facing the street. Building facades shall be defined by vertical articulations such as changes in wall plane, vertical projections, materials, or other methods. For commercial and retail uses, each facade shall have a minimum of one building entrance and building entrances shall be spaced not more than 40 feet apart. For office uses, a minimum of one building entrance is required for each 75 feet in width along the building's axis facing the street.

Sec. 44-310. Building orientation.

Primary buildings shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary building shall include at least one ground level main entrance oriented to the front of the lot. Where there are multiple, primary buildings on a single lot, each primary building with a street facing facade must have at least one ground level main entrance oriented to the street and addressed accordingly. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly. Each unit or building subdivision, including upper-story units or areas, shall have a ground level, main entrance located along the front facade.

Sec. 44-311. Parking.

Please see article III of this chapter for off-street parking and loading regulations.

Sec. 44-312. Residential dwelling units.

Residential dwelling units shall be located on floors above nonresidential uses. No nonresidential use may be located on a floor above a residential dwelling use, and residential and nonresidential uses located on the same floor shall be designed such that the hallways of entrances providing access to the different use areas of the building are physically separated.

Sec. 44-313. Detached accessory buildings.

(a) *Locations.* A detached accessory building may be located in a rear yard or interior side yard. Accessory buildings shall not be located in a front yard or exterior side yard.

(b) *Setbacks.* A detached accessory building shall not be located less than three feet from any side, rear, or alley lines, no less than 18 feet from an exterior side lot line, and no less than ten feet from the primary building.

(c) *Height.* A detached accessory building shall not exceed 20 feet in height or the height of the primary building, whichever is less.

(d) *Building size.* No greater than 30 percent of the rear yard or interior side yard area.

Secs. 44-314—44-324. Reserved.

DIVISION 5. DISTRICT CND-SF, CENTRAL NEIGHBORHOOD DISTRICT, SINGLE-FAMILY

Sec. 44-325. Permitted uses.

See the permitted use table in article V of this chapter.

Sec. 44-326. Setbacks.

(a) *Front yard.*

(1) Minimum: 15 feet.

(2) Maximum: Average block setback or 20 feet, whichever is less.

(b) *Side yard.*

(1) Minimum: Seven feet.

(2) Maximum: 14 feet.

(c) *Rear yard.*

(1) Minimum: 20 feet.

(2) Maximum: 40 feet.

Sec. 44-327. Building height.

(a) *In stories.*

(1) Minimum: One story.

(2) Maximum: 2½ stories.

(b) *In feet.*

(1) Minimum: 15 feet.

(2) Maximum: 38 feet.

Sec. 44-328. Lot area per family.

Every dwelling hereafter erected or altered shall provide a lot area of not less than 5,000 square feet per family, provided that where a lot of record has less area than herein required on December 18, 1972, this regulation shall not prohibit the erection of a one-family dwelling.

Sec. 44-329. Dwelling size.

Every dwelling hereafter erected, constructed, reconstructed or altered in a district CND-SF shall have a floor area, excluding basements, open and screened porches and garages, of not less than 750 square feet for each dwelling unit.

Sec. 44-330. Accessory uses.

See Accessory Uses located within District R-1, Single-Family Residential District.

Sec. 44-331. Facade transparency.

Street fronting building facades shall maintain a minimum level of transparency on the ground and upper stories. All windows must be transparent, non-reflective glass. Solid walls facing a street are prohibited.

(1) Ground floor residential uses:

a. Facades with entrance: Minimum of eight percent facade transparency, measured from floor to floor.

b. Facades without entrance: Minimum of 15 percent facade transparency, measured from floor to floor.

(2) Upper floor residential uses shall maintain a minimum of 15 percent transparency, measured from floor to floor.

Sec. 44-332. Building orientation.

Primary buildings shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary building shall include at least one ground level main entrance oriented to the front of the lot. Where there are multiple, primary buildings on a single lot, each primary building with a street facing facade must have at least one ground level main entrance oriented to the street and addressed accordingly. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly. Each unit or building subdivision, including upper-story units or areas, shall have a ground level, main entrance located along the front facade.

Sec. 44-333. Parking.

Please see article III of this chapter for off-street parking and loading regulations.

Sec. 44-334. Detached accessory buildings.

(a) *Locations.* A detached accessory building may be located in a rear yard or interior side yard. Accessory buildings shall not be located in a front yard or exterior side yard.

(b) *Setbacks.* A detached accessory building shall not be located less than three feet from any interior side lot line, rear, or alley lines, a depth no less than an exterior side yard setback of the primary building, and no less than ten feet from the primary building.

(c) *Height.* A detached accessory building shall not exceed 20 feet in height or the height of the primary building, whichever is less.

(d) *Building size.* No greater than 30 percent of the rear yard or interior side yard area.

Secs. 44-335—44-356. Reserved.

DIVISION 6. DISTRICT CND-MF, CENTRAL NEIGHBORHOOD DISTRICT, MULTIFAMILY

Sec. 44-357. Permitted uses.

See the permitted use table in article V of this chapter.

Sec. 44-358. Setbacks.

(a) *Front yard.*

(1) Minimum: Five feet.

(2) Maximum: Average block setback or 20 feet, whichever is less.

(b) *Side yard.*

(1) Minimum: Seven feet.

(2) Maximum: 14 feet.

(c) *Rear yard.*

(1) Minimum: 20 feet.

(2) Maximum: 40 feet.

Sec. 44-359. Building height.

(a) *In stories.*

(1) Minimum: Two stories.

(2) Maximum: Three stories.

(b) *In feet.*

(1) Minimum: 30 feet.

(2) Maximum: 45 feet.

Sec. 44-360. Lot area per family.

Dwellings hereafter erected or altered for multiple-family dwellings shall be a minimum of 1,200 square feet per family, provided that where a lot of record has less area than herein required in single ownership on December 18, 1972, this regulation shall not prohibit the erection of a one- or two-family dwelling. Also, for large parcels that are developed and that are owned by a single ownership, more than one dwelling on the tract shall be permitted as long as the applicable regulations in this Code are met.

Sec. 44-361. Dwelling size.

Every two-family dwelling hereafter erected, constructed, reconstructed, or altered in a district CND-MF, shall have a minimum floor area of 650 square feet. All one-family dwellings shall have a minimum floor area of 750 square feet.

Sec. 44-362. Facade transparency.

Street fronting building facades shall maintain a minimum level of transparency on the ground and upper stories. All windows must be transparent, non-reflective glass. Solid walls facing a street are prohibited.

(1) Ground floor residential uses:

a. Facades with entrance: Minimum of eight percent facade transparency, measured from floor to floor.

b. Facades without entrance: Minimum of 15 percent facade transparency, measured from floor to floor.

(2) Upper floor residential uses shall maintain a minimum of 15 percent transparency, measured from floor to floor.

Sec. 44-363. Building width.

Buildings shall be subdivided into facades no greater than 30 feet in width along the building's axis facing the street. Building facades shall be defined by vertical articulations such as changes in wall plane, vertical projections, materials, or other methods.

Sec. 44-364. Building orientation.

Primary buildings shall be oriented toward the front of the lot and addressed accordingly. The front facade of the primary building shall include at least one ground level main entrance oriented to the front of the lot. Where there are multiple, primary buildings on a single lot, each primary building with a street facing facade must have at least one ground level main entrance oriented to the street and addressed accordingly. When a primary building is located on a corner, the building and at least one ground level main entrance shall be oriented to match the orientation of the existing primary structures located on the same side of the street and within one block. A ground level, main, corner entrance is also acceptable. This primary building shall be addressed accordingly. Each unit or building subdivision, including upper-story units or areas, shall have a ground level, main entrance located along the front facade.

Sec. 44-365. Parking.

Please see article III of this chapter for off-street parking and loading regulations.

Sec. 44-366. Dethatched accessory buildings.

(a) *Locations.* A detached accessory building may be located in a rear yard or interior side yard. Accessory buildings shall not be located in a front yard or exterior side yard.

(b) *Setbacks.* A detached accessory building shall not be located less than three feet from any interior side lot line, rear, or alley lines, a depth no less than an exterior side yard setback of the primary building, and no less than ten feet from the primary building.

(c) *Height.* A detached accessory building shall not exceed 20 feet in height or the height of the primary building, whichever is less.

(d) *Building size.* No greater than 30 percent of the rear yard or interior side yard area.

Secs. 44-367—44-390. Reserved.

ARTICLE VII. DISTRICT RP-5, PLANNED MOBILE HOME PARK DISTRICT

DIVISION 1. GENERALLY

Sec. 44-391. Uses permitted.

In district RP-5, no building, structure or premises shall be used and no building shall be erected, constructed, reconstructed or altered except for one or more of the following uses:

(1) *Mobile home parks.* This type of planned residential district is set forth to allow an orderly development for mobile homes and to place them in areas suitable for residential living.

(Ord. No. 11296, 6-16-1997)

Sec. 44-392. Procedure for establishment generally; building permits.

(a) A district RP-5 may be established on a tract of land in a single ownership or under unified control provided that a preliminary development plan for a planned mobile home park district has been prepared and submitted in compliance with the regulations and requirements of this article.

(b) Application to rezone a property for a planned mobile home park district shall follow the required procedures for rezoning to a planned district, as outlined in this article.

(c) The location of any district RP-5 shall be on property which has an acceptable relationship to major thoroughfares, and the city planning and zoning commission shall satisfy itself as to the adequacy of the thoroughfare to carry the additional traffic generated by the development.

(d) The proponent of a planned RP-5 district shall prepare and submit, in triplicate, a preliminary development plan to the city planning and zoning commission for its inspection and review, upon which plan the commission shall advertise and hold a public hearing in conformance with the requirements for amending this chapter as provided under section 44-12. If this preliminary plan is found to comply with the intent of the requirements and regulations

set forth in this article, the city planning and zoning commission shall, upon approval of the preliminary plan, prepare and submit to the city council a request for an amendment to this chapter, which amendment is to provide for and establish an RP-5 district for the land covered by the preliminary plan.

(e) Upon approval of the zoning change by amendment to this chapter, the proponent shall submit a preliminary development plan, in triplicate, to the city planning and zoning commission for its review and recommendations. No building permit shall be issued for any construction in this district until the city planning and zoning commission shall have approved the preliminary development plan and the final development plans, submitted with the building permits, shall not deviate significantly from the preliminary development plan. If, in the judgment of the code enforcement director and the city engineer, the concept of development, as depicted on the final plans, deviates substantially from the concept of the preliminary development plan submitted, the code enforcement director shall deny the request for building permits.
(Code 1989, § 25-65; Ord. No. 11296, 6-16-1997)

Sec. 44-393. Plat and lot markers.

A plat shall be drawn to scale, shall show the layout of streets, lot areas and boundaries, and the location of buildings, recreational areas, parking areas and utilities. Lot areas shall be clearly marked on the grounds by permanently flushed stakes, markers, or other suitable means of identification.
(Code 1989, § 25-66; Ord. No. 11296, 6-16-1997)

Sec. 44-394. Standards and requirements.

The following standards and requirements shall be met in a district RP-5 for use as a mobile home park:

(1) The proposed mobile home park site shall contain not less than three acres;

(2) Adequate assurance that the execution of the project can and shall proceed to completion within a reasonable period of time;

(3) The park shall not have less than ten trailer spaces available at the first occupancy, except any expansion or enlargement of trailer home parks that are in existence on December 18, 1972, shall extend the expansion so that the entire area complies with the three-acre provision, and complies with all other provisions in the proposed expanded portion of such mobile park. Mobile home spaces (permanent) shall be a minimum of 3,000 square feet net, excluding roadways, community facilities and service areas, and such mobile home spaces shall be at least 40 feet wide and clearly defined. Also, the boundary limits of each mobile space (lot) shall be clearly marked on the grounds by permanently flushed stakes, markers, or other suitable means of identification. The owners of such mobile home park sites shall provide landscaping.

(Code 1989, § 25-67; Ord. No. 11296, 6-16-1997)

Sec. 44-395. Duties and responsibilities of mobile home park operator, attendant, etc., generally.

The operator, a duly authorized attendant or a caretaker shall keep the mobile home park, its facilities and equipment in a clean and sanitary condition. The attendant or caretaker shall be answerable, with the operator, for the violation of any provisions of this article to which the operator is subject.
(Code 1989, § 25-69; Ord. No. 11296, 6-16-1997)

Sec. 44-396. Failure to begin development of park.

Failure to begin development of the mobile home park within one year after the approval of the final development plan shall void such plan, unless a request for an extension of time is made by the proponent to the city planning and zoning commission and approved by such commission. No fee shall be charged for this request. If an extension of time is not granted and a period of one year has elapsed, the ordinance establishing

such district RP-5 shall be rescinded by the city council and the zoning of the entire tract shall revert to its former classification.
(Code 1989, § 25-70; Ord. No. 11296, 6-16-1997)

Secs. 44-397—44-420. Reserved.

DIVISION 2. REQUIREMENTS FOR MOBILE HOME PARKS

Sec. 44-421. Placement of mobile homes on lots; yard widths.

Mobile homes shall be harbored on each space (lot) so that there shall be at least 24 feet of side-to-side clearance and 15 feet of end-to-end clearance between mobile homes on adjacent spaces. A mobile home shall be placed on the space (lot) so that the ends of the mobile home shall be at least three feet from the rear lot line and ten feet from the front lot line. No mobile home shall be located closer than ten feet from any building within the park or from any property line bounding the park. Yard width shall be measured from the required mobile home stand to the individual mobile home lot line. At every point, yard width shall be at least equal to the required minimum. Expandable rooms, enclosed patios, garages or structural additions shall be included in the mobile home stand area. Patios, carports and individual storage facilities shall be disregarded in determining minimum yard widths.
(Code 1989, § 25-71; Ord. No. 11296, 6-16-1997)

Sec. 44-422. Access at entrances or exits.

Access to mobile home parks shall be designed to minimize congestion and hazards to the entrance or exit and allow free movement of the traffic on the adjacent streets. If there should be more than one entrance road, they shall be spaced not closer than 200 feet apart. The entrance roads connecting the park streets with the public streets or roads shall have a minimum road pavement width of 36 feet where parking is permitted on both sides or a minimum road pavement width of 28 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be 28 feet, provided that parking is prohibited on both sides.
(Code 1989, § 25-72; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-423. Streets and sidewalks; walkways to service buildings; service buildings; electrical outlets; numbering system.

With respect to internal streets, the following are minimum requirements where parking for at least one vehicle shall be provided on each mobile home space where sidewalks are adjacent to the streets. If sidewalks are not provided, the minimum width shall be increased by two feet. If parking is not provided on each mobile home space, the minimum street width shall be increased by eight feet. The following provisions for additional widths for sidewalks and parking shall apply to any side of the street upon which mobile home spaces front:

(1) All streets shall be 28 feet.

(2) Dead-end streets shall be limited in length to 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 98 feet.

(3) Walkways not less than two feet wide shall be provided from the mobile home spaces to the service buildings, provided that this subsection shall only apply to mobile home parks which accommodate dependent mobile homes.

(4) All driveways, parking areas, and walkways within the park shall meet the standards set forth in article III of this chapter. All roadways and streets shall meet the material design standards set forth in section 34-152.

(5) Each mobile home park shall provide service buildings to house such toilet, bathing, other sanitation facilities and such laundry facilities as are hereinafter more particularly described, provided that

this subsection shall only apply to mobile home parks which accommodate transient mobile homes.

(6) An electrical outlet supplying at least 110 volts shall be provided for each mobile home space.

(7) An acceptable individual and uniform address designation system for mobile home spaces shall be provided.

(Code 1989, § 25-73; Ord. No. 11296, 6-16-1997; Ord. No. 11813, 11-6-2007)

Sec. 44-424. Water supply.

Any mobile home park operated in the city must adhere to chapter 40, which outlines the basic mobile home park requirements for water service in section 40-75.

(Code 1989, § 25-74; Ord. No. 11296, 6-16-1997)

Sec. 44-425. Sanitation facilities generally.

Each mobile home park accommodating transient mobile homes without internal sanitation and plumbing service shall be provided with toilets, baths or showers, slop sinks and other sanitation facilities which shall conform to the following requirements:

(1) Toilet facilities for males shall consist of not less than one flush toilet and one urinal for the first ten transient mobile homes or any less number thereof, and, for transient mobile homes in excess of ten, not less than one additional flush toilet and one additional urinal for each additional ten transient mobile homes or fractional number thereof.

(2) Toilet facilities for females shall consist of not less than one flush toilet for the first five transient mobile homes or any less number thereof, and, for transient mobile homes in excess of five, not less than one additional flush toilet for every five additional mobile homes or fractional number thereof.

(3) Each sex shall be provided with not less than two lavatories and one shower or bath with individual dressing accommodations for the first ten transient mobile homes or any less number thereof, and, for transient mobile homes in excess of ten, not less than two additional lavatories and one additional shower or bathtub with individual dressing accommodations for every ten additional transient mobile homes or fractional number thereof.

(4) Each toilet and each shower or bathtub with individual dressing accommodations, for which provisions are made in subsections (1) through (3) of this section, shall be in a private compartment or stall.

(5) The toilet and other sanitation facilities for males and females shall be either in separated buildings or shall be separated, if in the same buildings, by a soundproof wall.

(6) There shall be provided in a separate compartment or stall not less than one flush toilet bowl receptacle for emptying bedpans or other containers of human excreta and an adequate supply of hot running water for cleansing such bedpans or containers.

(Code 1989, § 25-75; Ord. No. 11296, 6-16-1997)

Sec. 44-426. Service buildings.

The following regulations shall only apply to mobile home parks which accommodate transient mobile homes:

(1) Service buildings housing sanitation and laundry facilities, or any of such facilities, shall be permanent structures complying with this Code and all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

(2) Service buildings shall be well-lighted at all times of the day and night, shall be well-ventilated with screened openings, shall be constructed of such moisture proof material, including finished woodwork, as shall permit cleaning and washing and shall be maintained at a

temperature of, at least, 68 degrees Fahrenheit during the period from October 1 to May 1 in each year. The floor shall be of water-impervious material.

(3) Service buildings housing sanitation facilities shall be located not closer than ten feet nor farther than 200 feet from any mobile home space upon which a transient mobile home is harbored.

(4) All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

(Code 1989, § 25-76; Ord. No. 11296, 6-16-1997)

Sec. 44-427. Sewage and refuse disposal.

Waste from showers, bathtubs, flush toilets, urinals, lavatories, slop sinks and laundries in service buildings and other buildings within the park shall be discharged into a public sewer system, if available, in compliance with this Code and other applicable ordinances of the city. If such sewer system is not available, such wastes shall be discharged into appropriate sewage disposal systems, such as lagoons or septic tanks, so long as such places are approved by the state department of health and water pollution board. Sites which do not have access to the municipal sanitary sewer system will need to develop access at the developer's expense. Each mobile home space shall be provided with a sewer at least four inches in diameter.

(Code 1989, § 25-77; Ord. No. 11296, 6-16-1997)

Sec. 44-428. Garbage receptacles.

(a) All refuse shall be stored in fly-tight, watertight, rodent-proof containers. Containers shall be provided in sufficient number and capacity to properly store all refuse.

(b) All refuse containing garbage shall be collected in accordance with current city trash and sanitation services.

(Code 1989, § 25-78; Ord. No. 11296, 6-16-1997)

Sec. 44-429. Register of occupants.

(a) It shall be the duty of each operator or owner to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

(1) Name and address of each mobile home occupant;

(2) Name and address of the owner of each mobile home;

(3) The make, model, year and license number of each mobile home and motor vehicle;

(4) The state, territory and country issuing licenses;

(5) Whether or not each mobile home is a transient or an independent mobile home;

(6) Date of arrival and of departure of each mobile home.

(b) The mobile home park shall keep the register available for inspection at all times by any law enforcement officer and all public health officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three years following the date of departure of the registrant from the mobile home park.

(Code 1989, § 25-79; Ord. No. 11296, 6-16-1997)

Sec. 44-430. Annual inspection fee.

An annual inspection fee of $10.00 shall be paid on or before March 1 each year, by each and every mobile home park owner located within the city, to the city clerk defraying the cost of any annual inspection by the zoning administrator and city fire chief to assure that the mobile home park site continues to comply with the authorized plan previously approved for such site, if any.

(Code 1989, § 25-80; Ord. No. 11296, 6-16-1997)

Secs. 44-431—44-458. Reserved.

ARTICLE VIII. SPECIAL USE PERMITS

Sec. 44-459. Exceptions by special use permits.

(a) *General.* A special use permit is an act of granting permission to use land in a manner not permitted in a given zoning district following a public hearing before the planning and zoning commission and approval of a special use permit ordinance by the city council setting forth the terms and conditions of said special use. The granting of a special use permit should be conditional to the findings that there will be no substantial injury to the value of other property in the neighborhood in which it is to be located, public convenience will be served by the proposed special use, and that the proposed special use is compatible with surrounding permitted uses. The granting of a special use permit may be subject to certain conditions reasonably necessary to meet such standards. Examples of standards could be site buffering or screening; landscaping; setting hours of operation; restriction of merchandise sold; building setbacks; noise level management; stormwater management; advertising signage limits; building exterior standards; number of employees; etc.

(b) *Application for permit.* The granting of special uses shall not exist as a matter of right, but only upon issuance of a special use permit by ordinance of the city council after a public hearing and prior consideration and recommendation of the planning and zoning commission. Special uses shall be considered an exception to the general provisions of this chapter.

(1) Application for a special use permit may be by any interested party having a right of use of the land seeking such use, in written and documentary form, executed or endorsed with approval and authorization by the owner of the land upon which the same is to be located and by the holder of any debt, secured by lien and record thereon. The application shall first be considered by the planning and zoning commission after public hearing at which interested parties and citizens shall have an opportunity to be heard. The commission shall thereupon make its recommendation to the city council. At least 15 days' notice of time and place of the hearing before the planning and zoning commission shall be published in a newspaper of general circulation in the city, qualified to publish such legal matters. All reasonable effort shall be made to notify the nearby owners of property proposed for special use; therefore owners of all land within an area to be determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be rezoned, by certified mail, addressed to their last-known address.

(2) Such application shall contain the following information:

a. Names of owners of the land included in the application;

b. Accurate legal description of land for which such use is sought;

c. Full, specific and particular description of the use sought, both as to function and operation, and as to any structures, installations, equipment or surface improvement or change incident to such use;

d. A plan or drawing showing the location of such land, and of any structures, installations, equipment or change of surface contemplated, including all public ways, with access thereto;

e. Names and addresses or all owners of land adjoining and within 185 feet of that for which such permit is sought;

f. Any person, property owner or other interested parties requesting that a tract or parcel of land, lots or blocks be allowed special use, shall provide the planning and zoning commission with a complete list of the names, addresses and legal descriptions of land of all adjacent and adjoining property owners, within 185 feet of the proposed area to be changed or rezoned. Such list shall be certified as to accuracy by an

abstracter, and the costs of such list and certification shall be paid by the requesting person, owner or parties, which shall also include the expense of certified notice to adjacent and adjoining property owners or owners entitled to such notification. The planning and zoning commission shall have the further right to require the requesting party to provide a scale plat, drawings plat or drawing of the area proposed to be changed and the surrounding area if, in their opinion, the circumstances warrant such change;

g. Period of time of the term of such special use permit, if applicable.

(3) Before granting a special use permit the city council and planning and zoning commission shall establish that:

a. The special use is necessary for the public convenience at that location;

b. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;

c. Such special use shall conform to the applicable regulations of the district in which it is to be located; and

d. The petitioner cannot reasonably locate the proposed use in an existing zone suited for the intended use.

(c) *Recommendation of planning and zoning commission.* The recommendation of the planning and zoning commission upon hearing such application need not be limited to approval or disapproval of the applications filed, but may be conditional according to its terms, and shall include, by reference to the application, the following:

(1) Identification of owners of property for which such use is sought;

(2) Accurate legal description of the land for which such use is sought;

(3) Specific and detailed description of the special use;

(4) Statement of any recommended conditions or requirements to be met or complied with in the event the special use permit is granted;

(5) Statement of recommended term of use if applicable in the public interest.

(d) *Action by council.*

(1) The action by the city council, after receiving the recommendations of the planning and zoning commission, may be by ordinance, but shall not constitute an amendment to the zoning ordinance of the city;

(2) If the action is to deny the application, it shall be sufficient to so state;

(3) If the city council elects to grant a special use permit, the form of the ordinance shall constitute such permit, and shall include the following information:

a. The name of the permittee;

b. The name of the owner of land as to which such permit is granted;

c. Accurate legal description of the land for which the same is granted;

d. Full, specific and particular description of the use permitted;

e. Statement of the period of time for which such use is permitted if applicable;

f. Accurate and detailed statement of special conditions and requirements both as to the issuance of such permit, and as to the continuing validity thereof;

g. If written protest is filed at any time before the action of the city council with respect to such special use permit by the owners of ten percent or more either of the areas of the land included in such proposed change or within an area determined by lines drawn parallel to and 185 feet distance from the boundaries or

the district purposed to be changed, such permit shall not be allowed except by the favorable vote of two-thirds of the members of the city council.

(e) *Conditions of all special use permits.*

(1) If there is violation of or noncompliance with any of the stated conditions of such special use permit during the term thereof, the same shall be subject during revocation by resolution of the city council after public hearing after notice to the then owner and occupant of the land which is subject to the use. Upon such revocation, such permit shall thereafter be void and in no effect.

(2) Such special use permit shall not constitute a defense to any lawful action for civil or private rights on account of any such use.

(3) If such special use permit shall be for a limited or stated term of use, the same may be extended by the city council after public hearing and report by the planning and zoning commission; however, notice to property owners that are within 185 feet shall not be required for a special use permit extension.

(4) If a permitted special use ceases for a period of six months or more, it shall be automatically void. Use regulations pertaining to the tract shall be the same as if the special use permit had never been granted.

(f) *Special uses for consideration.* Examples of special uses which may be permitted may include, but are not limited to:

(1) Amusement parks, privately owned baseball or athletic fields, racetracks.

(2) Bed and breakfast.

(3) Cemeteries, mausoleums or crematories for the disposal of the dead.

(4) Clubs, private.

(5) Day nursery, over ten children.

(6) Drive-in theaters.

(7) Golf driving ranges, commercial or illuminated.

(8) Communal houses, residential A or B, subject to the provisions of section 44-460.

(9) Fraternity and sorority, residential. If fraternities and sororities are strictly residential, with the exception of regular scheduled chapter business meetings, a permit may be granted under the same conditions normally required of any special use or planned zoning request. They are as follows:

a. Site buggering, screening, if necessary;

b. Parking lot lighting with low profile lighting restrictions;

c. Landscaping;

d. Stormwater management (review and approval);

e. Sign (review and approval).

(10) Fraternity and sorority, nonresidential. All of the development criteria in subsection (f)(9) of this section for fraternity and sorority, residential shall be required in addition to the following:

a. Any building allowing social activity shall have building setbacks from any residential neighbor's property line of 50 feet;

b. Noise levels shall be maintained according to the standards set forth in section 44-62;

c. Parking as required by section 44-97(a)(5).

In the event that a majority of fee holders of interest of property within 185 feet of the property requesting a nonresidential special use permit for a fraternity or sorority sign a verified petition against the request for special use permit, the city planning and zoning commission and city council shall be required to approve the request by a two-thirds majority of the members present at the respective meeting of said commission and council. Fraternities and sororities which are clas-

sified as nonresidential shall be considered as meeting and public assembly halls for purposes of this article.

(11) Gun clubs, skeet shoots or target ranges.

(12) Keeping of horses or ponies on a lot one acre or larger.

(13) Camping areas, picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only.

(14) Nursery sales office, building, greenhouses or area (wholesale or retail).

(15) Nursing and convalescent homes.

(16) Public buildings.

(17) Taxi and other transportation terminals.

(18) Riding stables and tracks.

(19) Sewage, refuse, garbage disposal plants.

(20) Buildings, structures and premises for public utility services, or public service corporations, which buildings or uses the council deems reasonably necessary for public convenience or welfare.

(21) Off-street parking lots or structures of a temporary or permanent nature.

(22) Veterinarian.

(23) Accessory uses.

(g) *Plan approval.* All plans for construction or alteration to allow the establishment of a special use shall be submitted to the code enforcement director for review prior to issuance of permits. Such plan review shall be for the purpose of determining compliance with those conditions and stipulations which were proposed at the time of public hearing and initial action; and for further determination that the project, as it is proposed in final form, will comply with the spirit and intent of this section.

(Code 1989, app. A, § 25-99; Ord. No. 11029, § 11, 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11440, § 4, 3-20-2000; Ord. No. 11813, 11-6-2007)

Sec. 44-460. Exceptions by special use permits for communal houses, residential A or B.

(a) In addition to the provisions of section 44-459, the following restrictions and conditions shall be followed when granting a special use permit to communal houses, residential A or B. Communal houses, residential A or B, requesting a special use permit should attempt to locate near an institution of higher education and/or near student housing areas.

(b) The city shall categorize such requests for special use permits into two distinct types:

(1) Communal houses, residential A.

(2) Communal houses, residential B.

a. *Communal houses: residential A requests for special use permits.* A permit may be granted under the same conditions normally required of any special use permit or planned zoning request and shall require the following:

1. Site buffering, screening, if necessary;
2. Parking lot lighting with low profile lighting restrictions;
3. Landscaping;
4. Stormwater management (review and approval);
5. Sign (review and approval);
6. All social activity shall be contained within the building after 12:00 midnight;
7. Noise levels shall be maintained according to the standards set forth in section 44-62.

b. *Communal houses: residential B requests for special use permits.* All of the above development criteria for communal houses residential A shall be required, and in addition the following shall be required:

The main dwelling:

(i) Shall have building setbacks from any residential neighbor's property line of 50 feet;

(ii) Parking as required by article III of this chapter, off-street parking and loading;

(iii) In the event that a majority of fee holders of interest of property within 185 feet of the property requesting a special use permit for a communal house: residential B, sign a verified petition against the request for said special use permit, the city planning & zoning commission and city council shall be required to approve the request by a two-thirds majority of the members present at the respective meeting of said commission and council.

(Code 1989, app. A, § 25-99A; Ord. No. 11440, § 5, 3-20-2000)

Secs. 44-461—44-487. Reserved.

ARTICLE IX. FLOODWAY AND FLOODWAY FRINGE DISTRICTS

Sec. 44-488. Statutory authorization.

The legislature of the state has in RSMo ch. 89 delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the health, safety, and general welfare. Whereby, floodplain management regulations further protects the health, safety and general welfare of the citizens of the city. Therefore, the city council ordains as follows:
(Code 1989, app. A, § 25-100; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-489. 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:

100-year flood. See *Base flood.*

Accessory structure means the same as the term "appurtenant structure."

Actuarial rates. See *Risk premium rates.*

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency (FEMA).

Agricultural commodities means agricultural products and livestock.

Agricultural structure means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

Appeal means a request for review of the floodplain manager's interpretation of any provision of this article or a request for a variance.

Appurtenant structure means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the primary structure.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the structure having its floor subgrade (below ground level) on all sides.

Building. See *Structure.*

Chief executive officer or *chief elected official* means the official of the community who is

charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible community or *participating community* means a community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. The term "existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map of a community on which the administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood elevation determination means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards.

Flood fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood insurance rate map (FIRM) means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source (see *Flood* or *flooding*).

Floodplain management means the operation of an overall program of corrective and preven-

tive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term "floodplain management regulations" describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway or *regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functionally dependent use" includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this article.

Manufactured home means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for

use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market value or *fair market value* means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean sea level means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP means the National Flood Insurance Program.

Participating community, also known as an eligible community, means a community in which the administrator has authorized the sale of flood insurance.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Risk premium rates means those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. The term "risk premium rates" include provisions for operating costs and allowances.

Special flood hazard area. See *Area of special flood hazard.*

Special hazard area means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

Start of construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilita-

tion, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in the state.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. The term "structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term "structure" includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. The term "substantial improvement" includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified), of floods of various magnitudes and frequencies in the floodplain.

(Code 1989, app. A, § 25-109; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-490. Findings of fact.

(a) *Flood losses resulting from periodic inundation.* The special flood hazard areas of the city are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affects the public health, safety and general welfare.

(b) *General causes of the flood losses.* These flood losses are caused by:

(1) The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and

(2) The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

(c) *Methods used to analyze flood hazards.* The flood insurance study (FIS), that is the basis of this article, uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

(1) Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this article is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated February 4, 1981, as amended, and any future revisions thereto.

(2) Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(3) Computation of a floodway required to convey this flood without increasing flood heights more than one foot at any point.

(4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

(5) Delineation of flood fringe (i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood).

(Code 1989, app. A, § 25-101; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-491. Statement of purpose.

It is the purpose of this article to promote the public health, safety, and general welfare; to minimize those losses described in section 44-490(a), to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 CFR 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this article to:

(1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;

(2) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and

(3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Code 1989, app. A, § 25-102; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-492. General provisions.

(a) *Lands to which article applies.* This article shall apply to all lands within the jurisdiction of the city identified as numbered and unnumbered A, AE, AO, and AH zones, on the flood insurance rate map (FIRM) and flood boundary and floodway map (FBFM) dated February 4, 1981, as amended, and any future revisions thereto. In all areas covered by this article, no development

shall be permitted except through the issuance of a floodplain development permit, granted by the city or its duly designated representative under such safeguards and restrictions as the city or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in section 44-494.

(b) *Floodplain manager.* The code enforcement director is hereby designated as the floodplain manager under this article.

(c) *Compliance.* No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

(d) *Abrogation and greater restrictions.* It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(e) *Interpretation.* In their interpretation and application, the provisions of this article shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(f) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodway and flood fringe, or land uses permitted within such areas, will be free from flooding or flood damage. This article shall not create a liability on the part of the city, any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder. (Code 1989, app. A, § 25-103; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-493. Administration.

(a) *Floodplain development permit (required).* A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in section 44-492(a). No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

(b) *Designation of floodplain manager.* The code enforcement director is hereby appointed to administer and implement the provisions of this article.

(c) *Duties and responsibilities of floodplain manager.* Duties of the code enforcement director shall include, but not be limited to:

(1) Review of all applications for floodplain development permits to ensure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied;

(2) Review of all applications for floodplain development permits for proposed development to ensure that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required by federal, state, or local law;

(3) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;

(4) Issue floodplain development permits for all approved applications;

(5) Notify adjacent communities and the state emergency management agency (SEMA)

prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(6) Ensure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;

(7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;

(8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved nonresidential structures have been floodproofed;

(9) When floodproofing techniques are utilized for a particular nonresidential structure, the code enforcement director shall require certification from a registered professional engineer or architect.

(d) *Application for floodplain development permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

(1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;

(2) Identify and describe the work to be covered by the floodplain development permit;

(3) Indicate the use or occupancy for which the proposed work is intended;

(4) Indicate the assessed value of the structure and the fair market value of the improvement;

(5) Specify whether development is located in a designated flood fringe or floodway;

(6) Identify the existing base flood elevation and the elevation of the proposed development;

(7) Give such other information as reasonably may be required by the code enforcement director;

(8) Be accompanied by plans and specifications for proposed construction; and

(9) Be signed by the permittee or an authorized agent who may be required to submit evidence to indicate such authority.

(Code 1989, app. A, § 25-104; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-494. Provisions for flood hazard reduction.

(a) *General standards.*

(1) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A, AE, AO, and AH zones, unless the conditions of this section are satisfied.

(2) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If flood insurance study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.

(3) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase

the water surface elevation of the base flood more than one foot at any point within the community.

(4) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. Construction with materials resistant to flood damage;

c. Utilization of methods and practices that minimize flood damages;

d. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

1. All such proposals are consistent with the need to minimize flood damage;

2. All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located and constructed to minimize or eliminate flood damage;

3. Adequate drainage is provided so as to reduce exposure to flood hazards; and

4. All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.

(5) Agricultural structures. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed, provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this article; and a floodplain development permit has been issued.

(6) Storage, material, and equipment.

a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

(7) Accessory structures. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400

square feet, may be constructed at-grade and wet-floodproofed, provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this article; and a floodplain development permit has been issued.

(b) *Specific standards.* In all areas identified as numbered and unnumbered A, AE, and AH zones, where base flood elevation data have been provided, as set forth in subsection (a)(2) of this section, the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or one foot above base flood elevation.

(2) *Nonresidential construction* New construction or substantial improvement of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain manager as set forth in section 44-493(c)(9).

(3) Require, for all new construction and substantial improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and

b. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) *Manufactured homes.*

(1) All manufactured homes to be placed within all unnumbered and numbered A, AE, and AH zones, on the community's FIRM, shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(2) Manufactured homes that are placed or substantially improved within unnumbered or numbered A, AE, and AH zones, on the community's FIRM on sites:

a. Outside of manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to and existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a

manufactured home has incurred substantial damage as the result of a flood;

are required to be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to, or one foot above, the base flood elevation, and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(3) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A, AE and AH zones, on the community's FIRM, that are not subject to the provisions of subsection (c)(2) of this section, are required to be elevated so that either:

a. The lowest floor of the manufactured home is at or one foot above the base flood level; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(d) *Areas of shallow flooding (AO and AH zones).* Located within the areas of special flood hazard as described in section 44-492(a) are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

(1) *AO zones.*

a. All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

b. All new construction and substantial improvements of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

(2) *AH zones.*

a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in subsection (b) of this section.

b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

(e) *Floodway.* Located within areas of special flood hazard established in section 44-492(a) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

(1) The community shall select and adopt a regulatory floodway based on the principle

that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

(2) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(3) If subsection (e)(2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

(4) In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in subsection (a)(2) of this section.

(f) *Recreational vehicles.*

(1) Recreational vehicles placed on sites within all unnumbered and numbered A, AO, AE, and AH zones on the community's FIRM shall either:

a. Be on the site for fewer than 180 days consecutive days;

b. Be fully licensed and ready for highway use; or

c. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this article.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Code 1989, app. A, § 25-105; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-495. Floodplain management variance procedures.

(a) *Variances.* Variances from the floodplain management requirements of this article shall be heard by the city council, after receiving a recommendation by the planning and zoning commission.

(b) *Responsibility of appeal board.*

(1) Where an application for a floodplain development permit is denied by the code enforcement director, the applicant may apply for such floodplain development permit directly to the appeal board.

(2) The city board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the code enforcement director in the enforcement or administration of this article.

(c) *Further appeals.* Any person aggrieved by the decision of the board of adjustment, or any taxpayer, may appeal such decision to the circuit court of the county, as provided in RSMo ch. 89 and further provided in section 44-36.

(d) *Floodplain management variance criteria.* In passing upon such applications for variances, the planning and zoning commission and city council shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this article, and the following criteria:

(1) The danger to life and property due to flood damage;

(2) The danger that materials may be swept onto other lands to the injury of others;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flood damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

(e) *Conditions for approving floodplain management variance.*

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (e)(2) through (6) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the state inventory of historic places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(6) A community shall notify the applicant in writing over the signature of a community official that:

a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

b. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this article.

(f) *Conditions for approving variances for agricultural structures.*

(1) Any variance granted for an agricultural structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in subsections (d) and (e) of this section.

(2) In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed:

a. All agricultural structures considered for a variance from the floodplain management regulations of this article shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farmhouses, cannot be considered agricultural structures.

b. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's flood insurance rate map (FIRM).

c. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with section 44-494(a)(4)b.

d. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with section 44-494(a)(4)a. All of the building's structural components must be capable of resisting specific flood-related forces, including hydrostatic, buoyancy, and hydrodynamic, and debris impact forces.

e. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with section 44-494(a)(4)d.

f. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with section 44-494(b)(3).

g. The agricultural structures must comply with the floodplain management floodway encroachment provisions of section 44-494(e)(2). No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

h. Major equipment, machinery, or other contents must be protected from any flood damage.

i. No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the agricultural structures.

j. A community shall notify the applicant in writing over the signature of a community official that:

1. The issuance of a variance to construct a structure below

base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this article.

k. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(g) *Conditions for approving variances for accessory structures.*

(1) Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in subsections (d) and (e) of this section.

(2) In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed:

a. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's flood insurance rate map (FIRM).

b. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with section 44-494(a)(4)b.

c. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with section 44-494(a)(4)a. All of the building's structural components must be capable of resisting specific flood-related forces, including hydrostatic, buoyancy, and hydrodynamic, and debris impact forces.

d. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with section 44-494(a)(4)d.

e. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with section 44-494(b)(3).

f. The accessory structures must comply with the floodplain management floodway encroachment provisions of section 44-494(e)(2). No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

g. Equipment, machinery, or other contents must be protected from any flood damage.

h. No disaster relief assistance under any program administered by any

federal agency shall be paid for any repair or restoration costs of the accessory structures.

i. A community shall notify the applicant in writing over the signature of a community official that

1. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this article.

j. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(Code 1989, app. A, § 25-106; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-496. Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute an ordinance violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined as provided for in section 1-8 and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
(Code 1989, app. A, § 25-107; Ord. No. 11729, § 2, 9-26-2005)

Sec. 44-497. Amendments.

The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this article are in compliance with the National Flood Insurance Program (NFIP) regulations.
(Code 1989, app. A, § 25-108; Ord. No. 11729, § 2, 9-26-2005)

Secs. 44-498—44-519. Reserved.

ARTICLE X. CORRIDOR ZONING

Sec. 44-520. Corridor zone districts; enumerated.

(a) Notwithstanding the provisions of section 44-5, there are hereby established three new corridor zone districts, enumerated hereafter. These corridor districts recognize the need of the city to commercialize certain major corridors with denser traffic-oriented frontages, and yet provide for neighborhood protection of existing properties. The purpose of establishing corridor districts is to provide for a method of planning for the rezoning of land fronting on such corridors.

(b) Corridor zone districts shall be as follows:

(1) Low-density commercial corridor zone.

(2) Medium-density commercial corridor zone.

(3) High-density commercial corridor zone.
(Code 1989, app. A, § 25-114; Ord. No. 10783, § 1, 8-3-1987; Ord. No. 11296, 6-16-1997)

Sec. 44-521. Objectives.

The zoning of land to one of the corridor zone districts is intended to encourage innovative and imaginative site planning, to conserve natural resources, to minimize waste of land, and to maximize protection of property values. The following are objectives of corridor zoning:

(1) A proposal to rezone land to a corridor zone district shall be subject to the same criteria relative to compliance with the comprehensive plan, land use policies, neighborhood compatibility, adequacy of streets and utilities and other elements, as is normal in rezoning deliberations;

(2) The submittal by the developer and the approval of development plans by the planning commission and city council represents a firm commitment by the developer that development will indeed follow the approved plans in concept, intensity of use, aesthetic levels and quantities of open space;

(3) Commercial areas will be planned and developed so as to soften the impact on nearby residential neighborhoods, and to assure minimum adverse effects on the street system and other services of the community;

(4) The developer will be given latitude in using innovative techniques in the development of land not anticipated by standard zoning requirements.

(Code 1989, app. A, § 25-115; Ord. No. 10783, §1, 8-3-1987; Ord. No. 11296, 6-16-1997)

Sec. 44-522. Corridor streets.

(a) Corridor streets shall be those streets designated herein as such, and rezoning of property to a corridor zone district shall only be permitted with respect to property which abuts such corridor streets.

(b) The following streets are hereby designated as corridor streets:

(1) Baltimore Street on both sides, high density corridor zoning except the area from the north limit of Queens Road as extended, south to Cottonwood as extended, on both sides of Baltimore, and the area on the east side of Baltimore from the south boundary of Town and Country Subdivision to the northern city limit.

(2) Jamison Street on both sides from Patterson Street to Route 11, for those uses permitted up to and including medium density corridor zoning, except that portion of the corridor on the west side of Jamison between East Normal and East McPherson shall be designated as low density corridor zoning.

(3) Illinois Street north side, from Baltimore Street to the east city limits, high density corridor zoning, south side, from the west right-of-way of Cottage Grove to the east city limits, high density corridor zoning.

(4) Green/Marion Street, from Highway 63/North Baltimore Street south to area currently zoned M-1, designate both sides as high density corridor zoning.

(5) U.S. Highway 63 locations:

a. On the west of Highway 63, from a point 115 feet north of the north right-of-way line of Brewington Avenue, to a point to the northwest, following the land reserved for the outer road for 2,070 feet, and following the on-ramp of the highway, to a point 360 feet before the Business Highway 63 intersection.

b. On the east of Highway 63, from a point 500 feet north of the Business Highway 63 intersection, to a point 750 feet south of Lincoln Street.

c. On the east and west of Highway 63, from the north right-of-way line of Illinois Street, north 4,000 feet.

d. On the east of Highway 63, from the south right-of-way line of Illinois Street, south to the line of the old CB&Q Railroad right-of-way.

e. On the west of Highway 63, from a point 1,350 feet north of Shepherd Avenue right-of-way, south to the city limits.

f. On the east of Highway 63, from Patterson Street south to the city limits.

(6) North New Street and Rosewood Drive locations: All of that land enclosed within the triangle of Baltimore Street, North New Street, and Rosewood Drive is a combination of low, medium, and high density corridor zone properties.

(c) Hereafter, the planning and zoning commission may designate additional streets as corridor streets. In addition, the planning and zoning commission may remove the designation of a corridor street as such.

(Code 1989, app. A, § 25-116; Ord. No. 11029, § 13(a), 4-6-1992; Ord. No. 11296, 6-16-1997; Ord. No. 11995, § 1, 3-19-2012; Ord. No. 12157, § 9, 4-20-2015)

Sec. 44-523. Depth of corridor zone districts.

(a) The depth of all corridor zone districts shall be a maximum of 250 feet measured from the closest right-of-way line of the corridor street abutting such corridor zone district.

(b) The maximum depth of a corridor zone district may be increased when the development contemplated by a proposal to rezone property to a corridor zone district will provide positive economic impact on the community as a whole, or when said development will not adversely affect surrounding property values. In such event, the maximum depth may be increased as follows:

(1) An independent environmental specialist approved by the code enforcement director shall render a report in writing to the planning and zoning commission which addresses the impact of the development contemplated by the proposed rezoning. The report shall be at the sole cost of the developer and/or owner.

(2) The maximum depth of the corridor zone district may not be increased except by the favorable vote of two-thirds of the members of the planning and zoning commission present at the rezoning hearing.

(Code 1989, app. A, § 25-117; Ord. No. 11029, § 13(b), 4-6-1992; Ord. No. 11296, 6-16-1997)

Sec. 44-524. Uses permitted.

(a) *Low-density commercial corridor zone.*

(1) Professional offices (insurance, medical, dentists, lawyers, engineers and similar service-oriented offices) with no greater than five personnel, including staff and management.

(2) Retail mercantile sales and service with 1,400 square feet or less of floor area assessable to customers.

(3) Apartments, four units and less with not more than one bedroom per unit.

(4) Uses similar to above approved by the planning and zoning commission or the zoning administrator.

(b) *Medium-density commercial corridor zone.*

(1) Uses permitted in the low-density commercial corridor zone.

(2) Professional offices with greater than five personnel, including staff and management.

(3) Retail mercantile sales and service with 5,000 square feet or less of floor space accessible to customers.

(4) Apartments, five units and less with not more than two bedrooms per unit.

(5) Floral shops, nurseries, greenhouses.

(6) Banks, lending institutions.

(7) Uses similar to above approved by the planning and zoning commission or the zoning administrator.

(c) *High-density commercial corridor zone.*

(1) Uses permitted in the medium-density commercial corridor zone.

(2) Retail mercantile sales and service with 5,000 square feet or more floor space accessible to customers.

(3) Apartments, six or more units.

(4) Restaurants.

(5) Theaters.

(6) Nightclubs.

(7) Hotels/motels.

(8) Assembly/meeting halls.

(9) Recreation facilities.

(10) Uses similar to above approved by the planning and zoning commission or the zoning administrator.

(Code 1989, app. A, § 25-118; Ord. No. 11029, § 13(c), 4-6-1992; Ord. No. 11296, 6-16-1997)

Sec. 44-525. Point value system.

(a) *Value system established.* A point value system is hereby established for use by the planning and zoning commission and the zoning administrator in determining whether or not to recommend approval of a particular rezoning request to the city council. Recommendation to the city council to approve a particular rezoning request will not be given by the planning and zoning commission or the zoning administrator unless the minimum requisite number of points is accumulated.

(b) *Point assessment.*

(1) Corner lot: 75 points.

(2) Corner lot 15,000 square feet and larger: 100 points.

(3) Corner lot with full traffic signalization: 150 points.

(4) Corner lot 15,000 square feet and larger, with full traffic signalization: 250 points.

(5) Interior lot 10,000 square feet and larger: 75 points.

(6) Interior lot 15,000 square feet and larger: 100 points.

(7) Interior lot 20,000 square feet and larger: 150 points.

(8) Setbacks from all property lines of 20 feet or greater in excess of the minimum requirement in equivalent C-3 district: 50 points.

(9) Site screening (when developments occur where buildings, trash receptacles, parking or loading areas create neighbor discontent due to unsightly conditions, screening either by fencing, landscaping or earth berms is necessary): 100 points.

(10) Low-profile signing and lighting (signs to be 25 feet high or less, measured from street curb with no more than one detached sign and one building attached fascia sign; lighting for parking or display to be so arranged as to provide lighting only on the property to be developed): 50 points.

(11) Complete land use restriction (owner must agree to specifically restrict use and/or occupancy of the development): 100 points.

(c) *Points required.*

(1) Low-density commercial corridor zone: 250 points.

(2) Medium-density commercial corridor zone: 350 points.

(3) High-density commercial corridor zone: 450 points.

(Code 1989, app. A, § 25-119; Ord. No. 10783, § 1, 8-3-1987; Ord. No. 11029, § 13(c), 4-6-1992; Ord. No. 11296, 6-16-1997)

Sec. 44-526. Standards of development.

The standards of development in commercial corridor zone districts shall be as follows:

(1) *Parking.* See article III of this chapter for off-street parking and loading regulations.

(2) *Minimum setbacks; main buildings.*

a. Front yard: 60 feet from centerline of the major street abutting the property.

b. Side yard: Seven feet from property line.

c. Rear yard: 20 feet from property line.

d. Deviations. Where practical difficulties arise and where the planning and zoning commission finds ample

evidence that a deviation from said minimum setback requirements will not adversely affect neighboring property, then the planning and zoning commission may at the preliminary plan stage approve deviations as follows:

1. Side yard setback may be reduced to zero.

2. Rear yard setback may be reduced to zero.

(3) *Stormwater drainage.* All developments with over 25 percent in impervious surfaces must furnish adequate proof of stormwater management so as not to materially injure neighboring properties. This shall include complete engineering calculations and plans containing hydrological information on and off the site. The amount of engineering information may vary depending on the location of the development regarding surrounding properties and their relationship regarding stormwater problems. Such cases shall be reviewed by the city engineer prior to review of preliminary development plan by code enforcement director.

(4) *Maximum height.*

a. Low-density corridor zone: Buildings or structures shall not exceed 30 feet in height.

b. Medium-density corridor zone: Buildings or structures shall not exceed 45 feet in height.

c. High-density corridor zone: Buildings or structures shall not exceed 60 feet in height.

In cases where proposed buildings or structures exceed these height restrictions, they may be permitted to be erected no more than 150 feet in height provided that such buildings or structures shall have yards which shall be increased one foot on all sides for each additional foot that such building or structure exceeds these height restrictions.

(Code 1989, app. A, § 25-120; Ord. No. 10783, § 1, 8-3-1987; Ord. No. 11029, § 13(c), (d), 4-6-1992; Ord. No. 11296, 6-16-1997)

Sec. 44-527. Procedures for zoning.

The procedures for zoning land to a commercial corridor zone shall be in accordance with the provisions of section 44-12(a) though (c), and (e), together with the following:

(1) A tract of land may be rezoned, only upon application by the owner or owner's agent, and only upon approval of preliminary development plan. The proponent shall prepare and submit to the zoning administrator the following:

a. A preliminary development plan showing the property to be included in the proposed development, plus the area within 200 feet thereof.

b. The following items shall be included on the property to be developed:

1. Existing topography with contours at five-foot intervals provided that, where natural slopes are sufficiently flat, the zoning administrator may require contours at lesser intervals. In the case of small tracts of land where grade changes are not critical to the quality of development, the zoning administrator may waive the contour information;

2. Proposed location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, public streets, and any existing easements;

3. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan;

4. General extent and character of proposed landscaping.

c. The following items shall be shown on the same drawing of the 200-foot adjacent area:

1. Any public streets which are of record;

2. Any drives which exist or which are proposed to the degree that they appear on plans on file with the city except those servicing single-family houses;

3. Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the city. Single- and two-family residential buildings may be in approximate location and general size and shape.

d. A schedule shall be included indicating total floor area of dwelling units, land area, parking spaces and other quantities relative to the submitted plan in order that compliance with chapter requirements can be determined.

(2) The planning and zoning commission shall hold a public hearing on the zoning application, including the plan as provided by law. At such time as the development plan meets with the approval of the commission, the same shall be duly approved, properly endorsed and identified and sent on to the council for action.

(3) Prior to issuance of building permits, the final plans and building and site improvements shall be submitted to the code enforcement director for review as to compliance with the development plan. The development may proceed in stages and final plans for each stage shall be submitted and approved prior to permit issuance. The final plans, in addition to building construction plans, shall include a landscape and screening plan showing species and size of all plant materials, areas to be seeded, sodded, etc., all to be in keeping with the development plan as approved.

(4) If, in the judgment of the code enforcement director, the concept of development, as depicted on the final plans, deviates substantially from the concept of the preliminary development plan submitted for zoning, the code enforcement director shall deny the request for final plan approval.

(5) The applicant, in case of denial, may apply for a new hearing with publication as required in this section and the commission and council may approve or deny the final plans after said hearing. All decisions of the planning commission may be appealed to the city council who may reverse or affirm the same.

(6) In the event that construction of all improvements shown on the final plan is not completed within a period of three years following the date the preliminary plan was approved by the city council, then the zoning district classification for said tract of land shall automatically revert to its former classification immediately preceding such rezoning.

a. In the event development proceeds in stages, then the construction of all improvements shown on the final plan for the first stage shall be completed within a period of three years following the date the preliminary plan was approved. The construction of all improvements shown on the final plan for each subsequent stage shall be completed within a period of three years following the date the final plan for that particular stage was approved. Failure to construct the improvements within the time periods specified herein shall cause the zoning district classification with respect to that portion of the tract of land shown on such final plan, together with all sequentially following stages,

to automatically revert back to the zoning district classification immediately preceding such rezoning.

b. Additionally, if from the original plan of corridor zoned developments, only a portion of the original tract is used with the new development, the remaining area (of the original plan) shall revert back to the zoning prior to corridor zoning.

(Code 1989, app. A, § 25-121; Ord. No. 10783, § 1, 8-3-1987; Ord. No. 11029, § 13(c), (e), 4-6-1992; Ord. No. 11296, 6-16-1997)

Sec. 44-528. Protest.

In case of a protest against such application for rezoning which is duly signed and acknowledged by the owners of 50 percent or more of the land within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the proposed corridor zone district, the following shall apply:

(1) An independent environmental specialist approved by the code enforcement director shall render a report in writing to the planning and zoning commission which addresses the impact of the development contemplated by the proposed rezoning. The report shall be at the sole cost of the developer and/or owner;

(2) The application for rezoning may not be approved except by the favorable vote of two-thirds of the members of the planning and zoning commission present at the rezoning hearing.

(Code 1989, app. A, § 25-122; Ord. No. 11029, § 13(f), 4-6-1992; Ord. No. 11296, 6-16-1997)

Secs. 44-529—44-549. Reserved.

ARTICLE XI. OVERLAY DISTRICTS

DIVISION 1. GENERALLY

Secs. 44-550—44-576. Reserved.

DIVISION 2. KIRKSVILLE HISTORIC PRESERVATION

Sec. 44-577. Historic zoning district.

A historic zoned district recognizes property that have been officially designated by ordinance as "H, Historic" as an overlay district. This "H" designation is defined by chapter 2, article IX. Properties rezoned as "H" retain their underlying original zoning requirements as far as parking, setbacks, yard areas, etc., as long as they are not in conflict with the preservation of the historic structure or site.

(Code 1989, app. A, § 25-141; Ord. No. 11858, 2-23-2009)

Secs. 44-578—44-620. Reserved.

ARTICLE XII. SIGNS

Sec. 44-621. 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:

Abandoned sign means any sign, or portion thereof, that does not represent any business in whole or in part.

Attention attracting device means any flasher or blinker, with a strobe-like effect or other object designed or intended to attract the attention of the public to an establishment, which because it is flashing could create a safety hazard.

Awning. See *Canopy.*

Banner means a strip of cloth or other synthetic material that displays or projects a message for an event or product. Banners are normally meant to be used for intermediate events, or advertisement needs.

Billboard or *poster panel signs* means a freestanding sign structure especially built for the display of characters, letters, or illustrations produced on paper sheets, vinyl, or painting applied directly to the surface or sign structure advertising a product or service not located on

the same lot. The term "billboard" does not include real estate, subdivision, or downtown sandwich type signs.

Building code means the current building code adopted by the city.

Canopy means a roof-like cover, constructed of various materials which projects from the front or surface of a building covering a door, entrance, or window. An awning may or may not have a message or signage on it. If an awning carries an advertising message or symbol or corporate logo, it may be counted as a wall or fascia sign.

Central business district (CBD) means an area of the city described as follows: Beginning at the intersection of Franklin and Patterson streets, then west on Patterson to First Street, north on First to Normal Street, west on Normal to the old Norfolk and Western Railroad right-of-way, north on the right-of-way to Pierce Street, west on Pierce to Osteopathy Street, north on Osteopathy to Washington Street, east on Washington to the old Norfolk and Western Railroad right-of-way, north on the right-of-way to Missouri Street, east on Missouri to Main Street, north on Main to Cottonwood Street, east on Cottonwood to High Street, south on High to Harrison Street, east on Harrison to Mulanix Street, south on Mulanix to Washington Street, east on Washington to Florence Street, south on Florence to McPherson Street, west on McPherson to Mulanix Street, south on Mulanix to Normal Street, west on Normal to Franklin Street, south on Franklin to Patterson Street, to the point of beginning.

Code enforcement officer means the person charged with the administration and enforcement of this article, or a duly authorized deputy.

Curbline means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curbline shall be established by the code enforcement officer.

Detached sign means any sign located on the ground or on a structure located on the ground or a pole and not attached to a building. Often called a freestanding, pole, or pedestal sign.

Directly illuminated sign means any sign that has a separate lighting source directed upon the face of the sign.

Door sign means a sign with letters or illustrations mounted on the door of a retail establishment. Signs of this type will not be counted as a wall sign, even if such letters or illustrations are mounted on the exterior surface.

Downtown Kirksville area means that area contained within the CBD and further described as follows: The Downtown Kirksville area is bounded from the south right-of-way line of Illinois Street, on the north; east of a line which extends parallel and 215 feet west of the centerline of Main Street, on the west; west right-of-way line of High Street, on the east; and north right-of-way line of Jefferson Street, on the south.

Fluttering sign means signs which flutter in the wind and includes pennants, banners, nonofficial governmental flags or other flexible material which moves with the wind or by some artificial means. This includes the type of air powered "sign man" signs that imitate a person with arms that stands up and falls, and then repeats, with the use of an air blower.

Illuminated sign means any sign that is partially or completely illuminated by use of internal electricity or other lighting source.

Indirectly illuminated sign means any sign that has internal lighting features that direct light through the faces of the sign, to illuminate the words or pictures.

Mansard means a sloping roof which projects from the wall of a building. For purposes of this regulation a mansard having a pitch not exceeding one foot horizontal in three feet vertical shall be deemed a wall. A mansard having a lesser vertical slope shall be deemed as a roof.

Marquee sign means any sign attached flat against the marquee or permanent sidewalk canopy of a building.

Monument sign means a freestanding sign that is detached from a building and having a support structure that is a solid-appearing base constructed of a permanent material, such as

concrete block or brick. All other freestanding sign types not meeting the definition of a monument sign shall be either a pole sign or a pylon sign.

Moving message or video sign means a sign that involves wording moving electronically across the face of a sign, or may have a video image on the face of the sign. These types of signs may not use strobe-like effects.

National Electrical Code means the electrical code currently adopted by the city as published by the National Fire Protection Association.

Neon-lighted sign means an electric sign lighted by a long luminous gas-discharge tube that contains rarefied neon or other gases. Neon-lighted signs are the most common use for neon lighting.

Non-illuminated sign means a sign that has no internal or external lighting source to illuminate the sign face.

On-premises sign means a sign pertaining to an existing permitted use on the property upon which the sign is located. These signs must be made of metal, wood, or other structural supports that meet the wind resistance requirements. Flexible vinyl or tarpaulin type materials are not allowed for use as part of a permanent sign structure unless the flexible material is stretched tight and is completely covered by glass or a clear Lexan type material. Stick-on vinyl lettering or designs attached to a hard surface is acceptable.

Product sign means a sign that advertises a product and does not include the name of the business in use on the site. These signs do not require a permit, but must be attached to a fixed structure on the property, such as a building, driveway canopy, private light pole, fence, etc.

Projecting sign means any sign extending more than one foot from the face of the building to which it is attached or on a wall and having its face approximately at right angles to the face of the building.

Roof sign means any sign erected, constructed and maintained upon or over the roof of a building and using the roof as a principal means of support.

Sandwich board sign means a sign that is so designed to be self-supporting by design. Often times this sign is of the folding type and when collapsed is flat in nature, therefore "sandwiches" together.

Searchlight means an apparatus containing a light source and a reflector for projecting a high-intensity beam or beams of approximately parallel rays of light. A searchlight is considered to be an advertisement or an attention attracting device and is subject to all sign permitting processes.

Sign.

(1) The term "sign" means any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter contained thereon, which shall include paint on the surface of the building when used for the purposes of advertising. The term "sign" shall include, but is not limited to, pole signs, billboard or poster panels, illuminated signs, marquee signs, roof signs, searchlights, electric signs, wall signs, and projecting signs. Murals shall not be considered signs.

(2) Signs normally consists of four types:

Detached, freestanding, pedestal, or pole sign means an off-premises sign erected on a freestanding framework supported and affixed by one or more uprights or braces in or upon the ground.

Projecting signs means a sign affixed to a building or structure not mounted flush with a wall.

Temporary sign means any sign which may not have any structural support, footing, foundation, pier, pole, grade beam or any other accepted method of frost heave prevention. The term "temporary sign" may include any sign which is not designated or manufactured to be permanently anchored or affixed to the

ground, building or structure, but rather is designed or primarily used as a sign which is moveable from place to place. The term "temporary sign" shall include, but is not limited to, signs affixed to a trailer or other portable structure, and "A" frame or sandwich signs and yellow-flashing signs. The term "temporary sign" shall include signs of a material such as cardboard, paper, pressed woods, plastic or metal which is attached to a fence, tree, or temporary structure. Any temporary sign requires a permit.

Wall sign fascia sign or *awning sign* means any sign attached to and erected parallel to and/or within one foot of the face or wall of a building, including signs painted on the walls of buildings, or on the vertical flap of an awning or canopy.

Sign area means the area of a sign set out in these regulations shall mean the total area of the surface or "face" of the sign. Such signs as projecting, detached and outdoor advertising panels and bulletins may have more than one face, in which case the maximum area allowed herein shall apply to the total face or surface per sign side. The area of the sign, for purposes of these regulations, shall be computed from the dimensions of the entire surface upon which the letters, logo, etc., are placed, except that when individual letters, logos, etc., are mounted individually and directly upon a building wall surface without change in the color or appearance of the wall, the area of the sign shall be deemed to be the rectangle or other geometric form that encompasses the letters, logo, etc. The sign area of a double-sided sign will be computed using one side of the sign, as long as they are identical. When some question exists as to the area of a sign, the method of computing the same shall be determined by the code enforcement officer.

Sign height (how measured). Sign height shall be measured from the average grade level of the land or surface directly beneath the sign that serves the parcel or lot where the sign is located to the highest projection on the sign.

Signboard sign means a type of sign placed under a canopy or awning, advertising the store or business it is in front of. Normally placed at a right angle to the front wall of the store, so that pedestrians can read the store's name.
(Code 1989, § 6-163; Ord. No. 11970, § 1, 8-1-2011; Ord. No. 12231, 2-6-2017)

Sec. 44-622. Where signs permitted, number and types of signs allowed, and sign size.

(a) Signs may be permitted in all zoning districts, but each zoning district has varying allowances for types and sizes of signs. The reference to zoning classes is taken from this chapter. The categories listed below are defined as:

(1) *Where signs permitted.* Location or type of structure or area use.

(2) *Type of signs allowed.* The different types of signs allowed in the designated district.

(3) *Number of signs allowed.* The maximum number of signs of each type allowed in defined area.

(4) *Sign size.* The maximum number of square feet allowed for each sign face.

(5) *Sign height.* The maximum height of the sign allowed, as measured from the average grade level of the land directly beneath the sign to the highest point on the sign.

(6) *Other.* Other requirements in size, location, type, restrictions, etc.

(b) Advertising signs in the city must advertise only for those lots or buildings on which the sign rests, with the exception of billboard signs and temporary/sandwich signs. Signs are allowed based on the zoning district the signage is being placed in, as follows:

(1) This subsection is application to the following zoning districts:

R-1 Single-Family Residential

R-2 Two-Family Residential

RP-2 Planned Two-Family Special Residential

R-2-S Two-Family Special Residential

RP-2-S Planned Two-Family Special Residential

RP-5 Planned Mobile Home Park

a. Where permitted: Permitted home occupation.
    1. Type allowed: Detached sign or wall sign.
    2. Number allowed: One per home.
    3. Sign size: Two square feet.
    4. Height: Eight feet.
    5. Other: Must be a permanent, non-illuminated sign.

b. Where permitted: For sale or for rent signs for lots or buildings.
    1. Type allowed: Detached sign.
    2. Number allowed: One per lot.
    3. Sign size: 15 square feet.
    4. Height: Eight feet.
    5. Other:
        (i) Can be a permanent or temporary, non-illuminated sign.
        (ii) Can use existing sign pedestals and faces to mount for sale or for rent information.
        (iii) "For Rent" or "For Sale" signs may only be located on the property for sale or for rent.

c. Where permitted: Church or other institutional use.
    1. Type allowed: Detached sign or wall signs.
    2. Number allowed: One detached sign and two wall signs.
    3. Sign size: 50 square feet each.
    4. Height: Eight feet.
    5. Other:
        (i) Must be a permanent sign.
        (ii) Can be illuminated or non-illuminated.
        (iii) Signs must provide only name or location information, public activities, use, or directional information related to the property on which the sign rests.

d. Where permitted: Buildings under construction.
    1. Type allowed: Detached sign.
    2. Number allowed: One per building.
    3. Sign size: 50 square feet.
    4. Height: Eight feet.
    5. Other:
        (i) These are temporary signs only and are non-illuminated.
        (ii) Signs may show only names of architects, engineers, buildings, contractors, and location/company information on the premises of a building being constructed, provided any sign is removed upon completion of the building. These signs do not require a permit.
        (iii) A small contractor sign is permitted on the premises of any building worked on by that contractor but must be removed as soon as the work is completed. This type of sign does not require a sign permit, but is limited to a maximum size of four square feet. Lawn service contractors are also allowed a sign in the yard while working on a site but the sign must be removed when the contractor finishes the project at the end of the day.

(2) This subsection is application to the following zoning districts:

R-3 Multifamily Residential

RP-3 Planned Multifamily Residential

R-3S Multifamily Special Residential

RP-3S Planned Multifamily Special Residential

R-4 General Residential

RP-4 Planned General Residential

R-4S General Special Residential

RP-4S Planned General Special Residential

a. Signs shall also be permitted as provided for under subsection (b)(1) of this section.

b. Where permitted: Multifamily home with a minimum of 10,000 square feet of land area.

1. Type allowed: Detached sign.
2. Number allowed: One sign for each 10,000 square feet of land area.
3. Sign size: 32 square feet.
4. Height: Eight feet.
5. Other:
   (i) Any sign must be permanent.
   (ii) The sign can be non-illuminated or indirectly illuminated.
   (iii) Signs shall be limited to location or contact information, public activities, and use and directional information related to the property on which the sign rests.
   (iv) Signs must be located not more than one foot in front of any required front or side building setback line as determined by the code enforcement officer.

(3) This subsection is application to the following zoning districts:

O-1P Office Planned

C-1 Local Business

CP-1 Planned Local Business

CBD Central Business District

CBDP Planned Central Business District

LDCZ Low Density Corridor Zone

MDCZ Medium Density Corridor Zone

a. Signs shall also be permitted as provided for under subsections (b)(1) and (2) of this section.

b. For CBD and CBDP zoning districts, these requirements apply only to those areas not included within the Downtown Kirksville area for sign regulations.

c. All signs can be non-illuminated, indirectly illuminated, or directly illuminated.

d. Signs may only apply to the permitted use on that property, lot, or building where that sign rests.

e. Billboards are not permitted in any of the zones listed above.

f. Sign letters or pictures painted on a buildings wall surface that advertise the business is considered to be a wall sign.

g. Where permitted: Any standalone business or commercial establishment.

1. Type allowed: Wall signs, projecting signs, detached signs, canopy sign, moving message sign.
2. Number allowed: Two wall signs or one wall sign and one canopy sign, plus one projecting sign or one detached sign.
3. Sign size:
   (i) Wall signs: Each wall sign shall not exceed 15 percent of the total area of that

wall fascia the sign is mounted on, with 100 square feet being the maximum sign size allowed.

(ii) Projecting sign: 200 square feet.

(iii) Detached sign: One square foot for each linear foot of lot frontage, with 200 square feet being the maximum.

(iv) Canopy sign: A canopy sign is limited to only the vertical flap of the canopy.

4. Height:

(i) Wall signs: Shall not extend above the height of the wall on which they are mounted.

(ii) Projecting sign: Shall not extend above the height of the wall on which it is mounted.

(iii) Detached sign: 25 feet.

5. Other:

(i) A projecting sign shall not extend more than six feet from the face of the building.

(ii) No sign shall extend over public property other than a projecting sign over the public sidewalk.

(iii) Any detached sign shall be located no less than five feet from any neighboring property line.

(iv) In the case of a corner lot (when figuring the sign size by the lot frontage), the street side that is addressed shall be used for the calculation.

(v) In the case of a corner lot with multiple street frontages, an additional wall sign shall be allowed on each side street frontage.

(vi) A moving message sign would be counted as either a wall sign, projecting sign, or detached, sign, depending on where it is located.

h. Where permitted: Planned local shopping center or office park.

1. Type allowed: Wall signs, projecting signs, detached signs, canopy sign, moving message sign.

2. Number allowed: One wall sign or canopy sign, one detached sign (mounted on a fixture that advertises the shopping center or office complex), one projecting sign.

3. Sign size:

(i) Wall sign: Each wall sign shall not exceed 15 percent of the total area of that wall fascia the sign is mounted on, with 100 square feet being the maximum sign size allowed.

(ii) Detached sign: 32 square feet.

(iii) Projecting sign: 32 square feet.

(iv) Canopy sign: A canopy sign is limited to only the vertical flap of the canopy.

4. Height:

(i) Wall sign: A wall sign shall not extend above the height of the wall on which it is mounted.

(ii) Detached sign: 25 feet.

(iii) Projecting sign: Shall not extend above the height of the wall on which it is mounted.

5. Other:
   (i) The detached sign provided for a local shopping center or office park may have a 200 square foot main sign at the top which advertises the name of the shopping center or complex.
   (ii) The individual company advertising signs below the large sign naming the shopping center or complex are limited to 32 square feet in size.
   (iii) No sign shall extend over public property or right-of-way.
   (iv) Any detached sign shall be located no closer than five feet from any neighboring property line.
   (v) A business in a shopping center or office park that does not have a main sign that advertises the complex on the street frontage are allowed to have a detached sign advertising their business next to the right-of-way. These signs must be at least 40 feet from any other sign advertising businesses in the same complex when measured parallel to the street frontage. In this case, maximum sign size allowed is 100 square feet.
   (vi) A moving message sign would be counted as either a wall sign, projecting sign, or detached, sign, depending on where it is located.

(4) Signs in the central business district and the Franklin Street corridor. The following regulations apply to all sign requirements within the designated area called the central business district and the Franklin Street corridor:

a. The central business district, also known as Downtown Kirksville, is defined as follows: South right-of-way line of Illinois Street, on the north; east of a line which extends parallel and 215 feet west of the centerline of Main Street, on the west; west right-of-way line of High Street, on the east; and north right-of-way line of Jefferson Street, on the south.

b. The Franklin Street corridor is defined as follows: 150 feet east and west of the centerline of Franklin Street from the centerline of Normal Avenue to 220 feet north of the centerline of Elm Street.

c. Signs shall also be permitted as provided for under subsections (b)(1) and (2) of this section but not as permitted in subsection (b)(3) of this section.

d. All signs, with the exception of sandwich board signs, must advertise those lots or buildings on which the sign rests.

e. Signs permitted within the central business district and the Franklin Street corridor.
   1. Any sign within these areas must be positioned so as not to obscure existing architectural details. Building names or dates of construction that are raised or otherwise denoted from a building facade and are of historical significance shall be saved and free from obstruction or damage from new sign installation. All signs shall be located below the second floor windowsill line of a building, unless historical evidence indicates signage in a different location for any particular

structure. Signage color formats, materials, and lighting should be restrained and harmonious with the building's architecture.

2. Commercial and institutional land uses within these areas are allowed to erect the following number of signs: one wall sign or one canopy sign, plus one projecting sign or one signboard sign or one monument sign, plus two window signs, plus one sandwich board sign, plus one roof sign, if historical evidence shows such signage.

   (i) *Wall sign.* A wall sign may not exceed ten percent of the area of the first ten vertical feet of wall area, but shall be located below the second floor windowsill line of a building, if applicable. Wall signs shall not exceed two-thirds of the building wall length. A wall sign shall not exceed the height of the building. Buildings on corner lots may have one additional wall sign on the other street facing facade, which shall follow the guidelines for wall signs herein.

   (ii) *Projecting sign.* A projecting sign shall be limited in size to no more than one square foot of area for each linear foot of the side of the building to which the sign is attached, but may not exceed 32 square feet. A projecting sign may project over a public sidewalk no more than one-half the distance from the building to the curb and provide a minimum of seven feet, six inches of clearance above the sidewalk surface. A projecting sign may be installed over a public alley given it provides at least 15 feet of clearance above the alley and does not project more than three feet into the alley. A projecting sign shall not exceed the height of the building.

   (iii) *Canopy sign.* A canopy sign shall be limited to the vertical flap or the diagonal surface of the canopy and shall not exceed two-thirds of the vertical flap or the diagonal surface of the canopy.

   (iv) *Signboard sign.* A signboard sign shall be installed under a canopy serving the ground floor. The maximum size of a signboard shall be 14 inches by 48 inches with minimum of seven feet, six inches of clearance above the sidewalk surface.

   (v) *Window signs.* Window graphics should use high quality and durable materials and if painted should be placed on the inside surface of a door or window so as to prevent weathering. Window graphics should cover no more than 75 percent of the glass surface, including logos and text, and should be centered vertically and horizontally on the exposed glass surface.

(vi) *Sandwich board sign.* A sandwich sign shall be permitted in an adjacent sidewalk area of the business if the sign does not create a safety hazard, is removed at the end of the business day, and there is room for two people to walk down the sidewalk side by side. These signs do not require a permit, but they can only be placed on the sidewalk that is in front of the business being advertised. Signs are limited to six feet in height and may not take up more than two feet of the width of the sidewalk.

(vii) *Roof sign.* Roof signs shall only be installed if historical evidence indicates roof signage. Roof signs are encouraged to remain under 50 square feet and shall not extend more than five feet above the roof line.

(viii) *Banners.* Banner or products or services signs may be no greater than 32 square feet and shall be limited to one banner per 15 feet of building frontage. Any banner displayed does not require the purchase of a permit as long as it is attached to the private building. Banners may not be displayed from a canopy or awning. Banners within the central business district shall not be displayed for more than a total of four months throughout a single year.

(ix) *Murals and painted signs.* Murals painted on a building are permitted if done for artistic purposes or for expressing a historic or cultural idea. Sign letters or pictures painted on a building or in a sign band or elsewhere on the building is prohibited, unless there is a historical precedent for the building.

(x) *Neon signs.* Exterior neon signage and lighting is allowed. Exterior neon signage must be mounted so it is not a safety hazard. Neon signs mounted inside windows must be on first floor windows only, but are not counted as an advertising sign.

(xi) *Monument signs.* Monument signs shall be no greater than 30 square feet and no greater than eight feet in height.

f. Prohibited signs and lights.

1. Searchlights.
2. Billboards.

g. Historic downtown appearance. When designing and installing signs, business and property owners are asked to consider the historic precedent of the downtown area, and of restoration efforts made by other property owners, and try to complement the individual storefront characteristics of adjoining properties. The following ideas and suggestions are not requirements, but owners are encouraged to follow these guidelines to enhance the Downtown Kirksville area and to promote the historic character and appearance of the downtown:

1. *Sign size.* The size of any sign should be in scale with the

building and street. The use of large signs should be avoided. Large signs found in strip shopping centers are designed to be perceived by motorists. The Downtown Kirksville area is intended to be historic and pedestrian friendly. Accordingly, signs should be smaller in size and clearly seen at a pedestrian scale.

2. *Sign placement.* The placement of signs attached to buildings should be coordinated with those of adjacent buildings. Signs should be placed so they are similar in scale and do not vary significantly up or down from those on adjacent buildings or storefronts.

3. *Sign bands.* Any sign band should be incorporated into the design of the facade, located above storefront clerestory and below the second story windows. Sign letters and background should be designed in character with the building architecture.

4. *Street address.* Street address numbers should be prominently displayed at each business entrance and be clearly visible from the street. Street numbers may be painted on the front door or transom. Building addresses on the facades of buildings shall be individual cast or cut letters of a material compatible with the building architecture.

5. *Sign lighting.* Non-illuminated, directly illuminated, or indirectly illuminated signs are all allowed. All direct illumination should be positioned to prevent light from shining directly into the street or onto adjacent properties.

6. *Sign supports.* Frames and any supports for advertising signage should blend with the building architecture.

7. *Sign colors.* The color of the flap and letters on canopy or awning signs should be compatible with the colors and materials of the building and its architecture.

8. *Color contrast.* The color contrast between the letters and background of any sign should make the sign easy to read. Light colored letters over darker backgrounds are the easiest to read. The sign color should complement the color of the building and adjacent signs. Strive to avoid stark color or design contrasts between the sign and any adjacent buildings.

9. *Franchise signs.* Sign colors that are mandated by franchise company regulations shall be permitted.

10. *Multiple businesses.* When two or more businesses occupy the same building and share the same entrance, signs should be grouped together in a single panel. The letters and background contained in the panel or directory should be similar.

(5) This subsection is application to the following zoning districts:

C-3 Extensive Business

CP-3 Planned Extensive Business

HDCZ High Density Corridor Zone

M-1 Light Industrial

MP-1 Planned Light Industrial

M-2 Heavy Industrial

MP-2 Planned Heavy Industrial

a. Signs shall also be permitted as provided for under subsections (b)(1) through (3) of this section, not including the Downtown Kirksville area (subsection (b)(4) of this section).

b. Signs may only apply to the property, lot, or project that the sign rests on, with the exception of billboards.

c. All signs can be non-illuminated, indirectly illuminated, or directly illuminated. Any sign that is directly illuminated must not allow the illumination source to be directly visible from the right-of-way or adjoining property. Attention-attracting devices/signs are not allowed, with the exception of searchlights.

d. Sign letters or pictures painted on a building's wall surface used for advertising are considered to be a wall sign.

e. Where permitted: Any standalone business or commercial establishment.

1. Type allowed: Wall signs, projecting signs, detached signs, canopy sign, marquee signs, signboard sign, moving message sign, and billboard signs (see separate section for regulations on billboard signs).

2. Number allowed: Two wall signs or two marquee signs or two canopy signs or two projecting signs (or any combination of two of the foregoing signs), plus one detached sign.

3. Sign size:

(i) Wall and marquee sign size: Each wall or marquee sign shall not exceed 20 percent of the total area of that wall fascia the sign is mounted on, with 200 square feet being the maximum sign size allowed for each sign.

(ii) Projecting sign: 200 square feet maximum.

(iii) Detached sign: Two square feet for each linear foot of lot frontage, with 280 square feet being the maximum.

(iv) Awning sign: An awning sign is limited to only the vertical flap of the canopy.

(v) Signboard sign: Maximum size of 14 inches by 48 inches with a minimum of 90 inches of clearance above the sidewalk surface.

4. Height:

(i) Wall, projecting, or marquee signs: Shall not extend above the average roof level of one story buildings more than ten feet, and shall not extend above the average roof level of a two or more story building.

(ii) Detached sign: 35 feet.

5. Other:

(i) A projecting sign shall not extend more than six feet from the face of the building.

(ii) No sign shall extend over public property.

(iii) Any detached sign shall be located no less than five feet from any neighboring property line.

(iv) In the case of a corner lot (when figuring the sign size by the lot frontage), the street side where the building is addressed from shall be used for the calculation.

(v) In the case of a corner lot with multiple street frontages, an additional wall

sign or marquee sign or projecting sign shall be allowed on each side street frontage.

(vi) Businesses with franchise requirements to have more than one pedestal sign in front of the business, to meet brand recognition requirements of the franchiser, will be considered on an individual basis by the code enforcement director.

f. Where permitted: Planned local shopping center or office park.

1. Type allowed: Wall signs, projecting signs, detached signs, awning sign, marquee signs, moving message sign, signboard sign.

2. Number allowed: Two wall signs or two marquee signs or two awning signs or two projecting signs (or any combination of two of the foregoing signs), plus one detached sign (mounted on a fixture that advertises the shopping center or office complex).

3. Sign size:

(i) Wall or marquee: Each wall or marquee sign shall not exceed 20 percent of the total area of that wall or fascia the sign is mounted on, with 100 square feet being the maximum sign size allowed.

(ii) Detached sign: 60 square feet.

(iii) Projecting sign: 32 square feet.

(iv) Awning sign: An awning sign is limited to only the vertical flap of the canopy.

(v) Signboard sign: Maximum size of 14 inches by 48 inches with minimum of 90 inches of clearance above the sidewalk surface.

4. Height:

(i) Wall, projecting, or marquee signs: Shall not extend above the average roof level of one story buildings more than ten feet, and shall not extend above the average roof level of a two or more story building.

(ii) Detached sign: 35 feet.

5. Other:

(i) The detached sign provided for a local shopping center or office park may have a 200 square foot main sign at the top which advertises the name of the shopping center or complex.

(ii) The individual company advertising signs below the large sign naming the shopping center or complex are limited to 60 square feet in size. The bottom of the lowest mounted individual company sign must be a minimum of ten feet above the ground level.

(iii) No sign shall extend over public property.

(iv) Any detached sign shall be located no less than five feet from any neighboring property line.

(v) Businesses in a shopping center or office park that do not have a main sign that advertises the complex on the street

frontage are allowed to have a detached sign advertising their business next to the right-of-way. These signs must be at least 40 feet from any other sign advertising businesses in the complex when measured parallel to the street frontage. In this case, the maximum sign size allowed is 160 square feet.

(vi) A moving message sign would be counted as either a wall sign, projecting sign, or detached sign, depending on where it is located.

(6) Highway billboard signs. The following specific regulations pertain to any sign located along the Highway 63 or Highway 6 highways within the city limits:

a. Maximum size of 288 square feet per face.

b. Two back-to-back faces per sign only.

c. Signs must be set back a minimum of 15 feet from the right-of-way or from the adjoining side property line.

d. Maximum height of billboards from grade elevation may not exceed 35 feet.

e. The spacing of signs shall be no closer than 1,400 feet between each sign structure on the same side of the road.

f. Signs may not be stacked one above another.

g. Billboard signs may be placed only on land that is zoned as C-3, CP-3, M-1, MP-1, M-2, MP-2, or HDCZ.

h. No side-by-side signs shall be permitted.

i. Signs cannot maintain flashing, intermittent, or moving lights or imitate or resemble an official traffic sign.

j. To obtain a billboard sign permit from the city for a location along the Highway 63 or Highway 6 rights-of-way, the applicant must first bring a copy or proof of an approved sign permit from the state department of transportation.

(7) Major corridor billboard signs.

a. Areas in the city where billboards are allowed:

1. South Baltimore Street, from Shepherd Avenue to the south city limits, where zoning permits.

2. North Baltimore Street, from where Highway 6 goes west from Baltimore Street, north to the city limits, where zoning permits.

3. Illinois Street, from Baltimore Street east to the city limits, where zoning permits.

4. Shepherd Avenue from Baltimore Street east to the city limits, where zoning permits.

5. Highway 6 from Baltimore Street west to the city limits, where zoning permits.

6. Any location along Highway 63, where zoning permits.

b. Billboard signs may be placed only on the street sections listed above and on lots that are zoned as C-3, CP-3, M-1, MP-1, M-2, MP-2, or HDCZ.

c. Signs must be set back a minimum of 15 feet from the right-of-way or from the adjoining side property line.

d. Maximum size of 260 square feet per sign face, for locations that are not along Highway 63 or Highway 6.

e. Two back-to-back faces per sign only.

f. Maximum height of billboards from grade elevation may not exceed 35 feet.

g. The spacing of signs that are more than 200 square feet per face shall be no closer than 750 feet between each sign structure on the same side of the road, for locations that are not along Highway 63 or Highway 6.

h. The spacing of signs that are less than 200 square feet per face shall be no closer than 200 feet to any other sign structure on the same side of the road, for locations that are not along Highway 63 or Highway 6.

i. No side-by-side signs shall be permitted.

j. Billboard signs must meet all state laws and requirements per state department of transportation regulations.

k. Any current nonconforming billboard sign (not currently in a location that allows billboards, but had been grandfathered) located in the city limits may not be reconstructed or enlarged, have lighting added, height increased, etc. If the sign deteriorates to more than 50 percent of its replacement cost, it may not be reconstructed and must be removed. If there is no advertising for a current business for a period of 60 days or more, any grandfathering rights will be revoked and immediate removal of the billboard will be required. Any sign that remains blank for a continuous period of more than 60 days is deemed abandoned and no longer a legal nonconforming sign. For purposes of this subsection, a sign is blank if:

1. The advertising message it displays becomes illegible in whole or substantial part.
2. No advertising copy is visible on the sign.
3. The advertising copy promotes only the rental of the sign.

(Code 1989, § 6-164; Ord. No. 11970, § 1, 8-1-2011; Ord. No. 11979, § 1, 11-21-2011; Ord. No. 12231, 2-6-2017)

Sec. 44-623. Temporary signs, banners, and searchlights.

(a) *Temporary signs.* Except where otherwise prohibited, in addition to the allowed advertising signage set forth herein, each business shall be allowed to use a portable, temporary sign for their advertising needs. These signs shall be permitted by the code enforcement director after a site plan has been submitted and approved. The fee for the temporary sign is as noted in the fee schedule published by the city, a copy of which is available at city hall during normal business hours, or on the city's website. The temporary sign permit will expire after the number of months purchased by the permit. A temporary sign can only be purchased for up to three months. The person purchasing the temporary sign permit must make sure the expiration date is written in the lower right-hand corner of the sign to assist in enforcement of the section. If the sign is discovered without an expiration date, the sign must be removed immediately until the date can be applied to the sign. The temporary sign shall be located on private land and shall not exceed 32 square feet in total area. In cases where businesses do not have sufficient land for the placement of a temporary sign, a sign shall be permitted in the adjacent sidewalk area if the sign does not create a safety hazard, does not obstruct the sidewalk, and is removed at the end of the business day. Temporary signs promoting community or public related events may be located on any lot with permission of the lot owner. Signs advertising new or existing businesses must be located on the property where the business is currently

located or where it has plans to locate. Temporary signs shall be clean and maintained in a sound state of repair. Temporary signs that are in need of repair shall be removed or repaired as ordered by the code enforcement director.

(b) *Products and service signs and banners.*

(1) These are signs that do not advertise a business name, but the services or products that a business provides, such as "15-inch pepperoni pizza $10.00"; "cold beer 24-pak $15.00"; "milk $2.50 gallon"; "we buy gold"; "flu shots"; "Powerball tickets here"; "oil changes here"; etc., and shall be regulated in the following manner:

a. Signs may be no larger than 32 square feet in size.

b. All signs must be attached to a structure on the business property such as a fence, the building, awning support, or private light pole. Any of these signs stuck into the ground or the parking lot will be considered a temporary sign and will require a permit.

c. Any banner or sign as described above displayed in a commercial business zoning district does not require the purchase of a permit. All banners, while not requiring a permit and not required to meet the wind pressure requirement, shall have a neat and clean appearance and be maintained in good repair.

d. All banners and signs must be clean and maintained in a sound state of repair. Any that are torn, dirty, or defaced must be removed.

(2) Advertising banners or products and services signs are not allowed to be above or in the public right-of-way.

(3) In all districts, including the Downtown Kirksville area, temporary signs or banners of a public or semipublic nature shall be permitted. Banners of a public or semipublic nature or function shall be permitted to be displayed on private property or in the right-of-way subject to approval of the city.

(4) Banners or signs displayed on vehicles or persons shall not be regulated by this article.

(c) *Searchlights.* A permit for the use of a searchlight, or for a searchlight to be used as an attention attracting device, may be permitted and granted under the following additional regulations:

(1) A searchlight shall be located a minimum distance of 50 feet from a public right-of-way and positioned so as to project all beams at a minimum angle of 45 degrees from grade level, and roof level.

(2) The maximum light intensity generated by searchlights on any premises may not exceed a total of 1.6 million footcandle power. No more than four beams of light may be projected from any premises.

(3) All searchlights must be designed and maintained and focused so as to prevent rays of light from being directed at any portion of the rights-of-way or adjoining property, and no light shall be of such intensity or brilliance to cause glare to impair the vision of the driver of any vehicle, or to create greater than 0.5 footcandles at four feet height at the property line.

(4) No searchlight may be operated between the hours of 12:00 midnight and 7:00 a.m.

(5) No searchlight may be operated on a premises for more than seven consecutive days.

(6) No permit for a searchlight may be issued for any business entity for which a permit has been issued for a searchlight on the same premises within the six months preceding the date of the permit application.

(7) Searchlights may be used in commercial zones only.

(Code 1989, § 6-165; Ord. No. 11970, § 1, 8-1-2011; Ord. No. 12231, 2-6-2017; Ord. No. 12233, 3-6-2017)

Sec. 44-624. Additional regulations.

(a) *Permit required.* Sign permit fees will be established by the cost of construction of said sign. The cost of construction includes the sign, materials, and labor for installation. Permit fees, except for temporary signs, shall be based on the current fee schedule established for all structures, buildings, and signs in the building code.

(b) *Sign condition and design.* All signs shall be structurally sound, be maintained in good repair, have a clean and neat appearance, and land adjacent shall be kept free from debris, weeds, and trash. All signs shall be designed and installed to withstand not less than 80 pounds per square foot of wind pressure, except where otherwise provided. All signs as permitted above shall be so constructed and installed to meet the requirements of the city's building code.

(c) *Exempted signs.* Signs which are essential and necessary for the safety and welfare of the public, including historical markers on premises officially recognized by city, county, state, or federal units of government, or for the overall benefit of the public, and which are not of an advertising or promotional nature shall be exempt from these regulations.

(d) *Prohibited signs.* No attention-attracting device, strobe-flashing sign, temporary sign, or other sign that could interfere with traffic safety or constitute a nuisance shall be allowed.

(e) *Government signs.* Government signage, road improvement signs, and emergency informational signs shall not be regulated by this article.

(f) *Seasonal signage.* Signs advertising Christmas, Thanksgiving, other holidays, fall deer and spring turkey firearm hunting season shall be authorized without city permission. However, this type of signage shall be removed within 14 days after the holiday or event.

(g) *Nonconforming signs.* All existing signs which do not conform to these regulations shall be subject to the following procedures:

(1) All existing nonconforming portable signs (including banners and signs on the right-of-way) as defined herein shall be removed not later than 90 days from the effective date of the ordinance from which this article is derived.

(2) Any nonconforming sign, if it is showing signs of collapse or facial mending, shall be repaired or removed.

(3) Signs that are altered in size, height, or structure shall conform to this article.

(4) Removable letter signs that are mounted on trailers or on a portable base are considered as nonconforming signs. Attaching or embedding these signs to the ground so that they are no longer movable is still considered as nonconforming.

(5) Nonconforming signs shall be repaired or modified to comply with the requirements of this Code, or removed.

(h) *Abandoned signs.* When a business ceases operation, the on-premises signage shall be removed by the building owner according to the following schedule:

(1) Sign and/or cabinet: Within 30 days.

(2) Supporting structure: Within 180 days.

(i) *Removal of abandoned signs.* Any sign that is so old or dilapidated and is structurally deficient shall be considered an abandoned sign and shall be acted on by the city in the same manner as abandoned signs. All owners or agents will be served with notice by the city to remove the sign.

(j) *Signs not subject to regulations.* Signs that are located inside buildings and inside enclosed malls shall not be subject to these regulations.

(k) *Maintenance.* All signs, including their structural supports, anchors, and electrical devices, shall be kept in good repair and working order. The display surfaces of all signs shall be kept painted or properly finished at all times.

(l) *State statues.* All signs and billboards placed next to the rights-of-way of the State's primary highway system are required to meet all of the requirements of RSMo 226.500 through 226.600.

(m) *Help wanted signs.* Help wanted signs may be displayed only on the site of the business looking for additional employees. These signs may not be displayed in the right-of-way or on other business locations unless they are behind a window display area inside of a building.

(n) *Light-emitting intensity.* The light-emitting intensity of video signs or message signs with picture capabilities are not allowed to cause glare to the point of distracting drivers, or shining in the windows of adjacent residential properties. Complaints of excessive light on these types of signs are an indication that the light intensity is too high and therefore must be turned down or reduced.

(o) *Video signs and moving message signs.* Video signs are not allowed to change an image any sooner than every ten seconds. A moving message sign is allowed to continue scrolling a message across the screen if it is words/letters only.

(p) *Fluttering signs.* Fluttering signs which flutter in the wind are allowed with the following provisions:

(1) All signs must be placed no closer than 25 feet to the street right-of-way line.

(2) Signs of this nature that advertise products or services of the business are allowed without a permit as long as they are attached to a permanent structure on private property.

(3) Signs of this nature that advertise the name of a business are allowed only by purchasing a temporary sign permit.

(q) *General purpose of sign standards.* The general purpose of these sign standards is to promote, preserve, and protect the health, safety, general welfare, and convenience of the public, to preserve and protect the aesthetic quality of the city, and to achieve the following:

(1) Promote the safety of persons and property by providing signs that do not create a hazard or otherwise interfere with the safety of persons or property;

(2) Enhance the appearance and economy of the city by providing that signs:

a. Do not create a nuisance to persons using the public rights-of-way.

b. Do not constitute a nuisance to occupancy of adjacent property by their brightness, size, height, or movement.

c. Do not overwhelm people by the number of messages presented, and do not interfere with the exercise of freedom of choice to observe or ignore said message, according to the observer's purpose.

d. Do not create or worsen visual clutter or visual blight.

e. Do otherwise protect, preserve, and enhance the appearance and economy of a quality landscape in the city.

(Code 1989, § 6-166; Ord. No. 11970, § 1, 8-1-2011; Ord. No. 12231, 2-6-2017)

Sec. 44-625. General sign regulations.

(a) *Public office candidates.* Signs, posters, and similar devices used by candidates for public office shall be regulated by applicable codes and ordinances of the city and shall not be within jurisdiction of this article.

(b) *Public signs.* The code enforcement director may waive the permit fee for those signs which are for the sole purpose of promoting an event or effort of a philanthropic, civic, or public service nature.

(c) *Special signs.* Removal of signs which were engraved, carved in stone, or were otherwise a permanent part of a building prior to June 27, 2005, the adoption of this regulation, will not be required. In addition, signs that are a part of the building's design are not to be regulated per this article.

(d) *Variance.* Where this regulation creates a unique situation that would pose a direct hardship upon the owner, a variance may be granted after a request and public hearing before the planning and zoning commission, a reference of

approval or denial from the planning and zoning commission, and a final decision from the city council. A variance shall not be granted because of economic reasons as a basis only. The criteria for public hearing in the case of request for variance shall be followed as regulated in section 44-12(c). For any request for sign variances, the certified letters to individual property owners are not required. The required notice of public hearing placed in the local newspaper will meet the public notice requirement.

(e) *PUD zoning.* In the case of a PUD (planned unit development) zoning district, which has both commercial and residential areas, the residential areas will be considered R-1, Single-Family residential zoning, and commercial will be considered C-1, Local Business zoning for the purpose of advertising signage. Any deviations from this designation must be approved by the code enforcement director.

(f) *Yard sale or moving sale signs.* Signs that are commonly referred to as yard sale, garage sale, or moving sale signs have the following regulations and restrictions:

(1) These types of signs do not require a permit.

(2) Signs may be up no longer than four days.

(3) Signs must be removed within 24 hours after the sale has ended.

(4) Signs may not be attached to poles or street signs.

(5) Signs are not allowed on the right-of-way of any state highway, but may be placed on city right-of-way with the adjacent property owner's permission.

(6) Signs may not be placed where they interfere with traffic or sight distances, such as at street intersections.

(7) For any yard sale or moving sale sign not complying with these requirements, the code enforcement officer, or designee, or a representative of the police department is hereby authorized to remove such sign without prior written notice to the owner of the sign.

(g) *Removal of signs.* If a real estate sign, auction sign, notice, poster, or other paper or device, is posted or affixed to any lamppost, utility pole, or traffic-control sign in the right-of-way, or upon any public structure or building, or placed in the ground in the right-of-way, the code enforcement officer, or designee, or a representative of the police department, is hereby authorized to remove such sign without prior written notice to the owner of the sign.

(Code 1989, § 6-167; Ord. No. 11970, § 1, 8-1-2011; Ord. No. 12231, 2-6-2017)

Sec. 44-626. Penalty.

Any person convicted of a violation of this section shall be punished as provided in section 1-8.

(Code 1989, § 6-168; Ord. No. 11970, § 1, 8-1-2011; Ord. No. 12231, 2-6-2017)

CODE COMPARATIVE TABLE

1974 CODE

This table gives the location within this Code of those sections of the 1974 Code included herein. Sections not listed have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

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1989 CODE

This table gives the location within this Code of those sections of the 1989 Code, as supplemented through May 7, 2018, included herein. Sections not listed have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequently, see the table immediately following this table.

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11-51	30-19	14-27	12-12
11-56	30-20	14-28	12-13
11-57	30-21	14-29	12-14
11-58	30-22	14-30	12-15
11-59	30-23	14-31	12-16
11-60	30-24	14-32	12-18
11-61	30-25	14-33	12-19
11-62	30-26	14-34	12-20
11-63	30-27	14-35	12-21
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