

CODE OF ORDINANCES

City of

NIXA, MISSOURI

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2360, enacted July 22, 2024.

See the Code Comparative Table—Ordinances for further information.

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**CODE
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Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2332, enacted October 23, 2023.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
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SUPPLEMENT NO. 13
August 2023

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2304, enacted March 27, 2023.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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Checklist of up-to-date pages	Checklist of up-to-date pages (Following Table of Contents)
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SUPPLEMENT NO. 12
December 2022

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2276, enacted August 22, 2022.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
xiii—xix	xiii—xix
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SUPPLEMENT NO. 11
May 2022

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2247, enacted March 14, 2022.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
xiii—xix	xiii—xix
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
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SUPPLEMENT NO. 10
December 2021

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2228, enacted October 25, 2021.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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SUPPLEMENT NO. 9
June 2021

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2171, enacted February 22, 2021.

See the Code Comparative Table—Ordinances for further information.

Included in the Charter is:

Home Rule Charter Update 2020, June 3, 2020.

See the Charter Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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SUPPLEMENT NO. 8
June 2020

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2104, enacted January 27, 2020.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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SUPPLEMENT NO. 7
April 2019

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2034, enacted February 25, 2019.

See the Code Comparative Table—Ordinances for further information.

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SUPPLEMENT NO. 6
May 2018

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1974, enacted January 22, 2018.

See the Code Comparative Table—Ordinances for further information.

Remove Old Pages

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Insert New Pages

Checklist of up-to-date pages
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**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1934, enacted March 20, 2017.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
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CD20:5	CD20:5
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CD103:4.1—CD103:4.3	CD103:4.1—CD103:4.3
CD111:1, CD111:2	CD111:1, CD111:2
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CCT:9	CCT:9
SLT:1—SLT:4	SLT:1—SLT:4
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**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1900, enacted March 21, 2016.

See the Code Comparative Table—Ordinances for further information.

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CD22:9—CD22:12	CD20:41, CD20:42
CD22:55—CD22:62	CD22:9—CD22:12.1
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SUPPLEMENT NO. 3
May 2015

**CODE
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Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1850, enacted April 20, 2015.

See the Code Comparative Table—Ordinances for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
xiii—xviii	xiii—xviii
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
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SUPPLEMENT NO. 2
June 2014

**CODE
of the
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Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1810, enacted January 21, 2014.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages
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CD113:3—CD113:12
CCT:7, CCT:8

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Checklist of up-to-date pages
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SH:1
CD22:61, CD22:62
CD113:3—CD113:12.5
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SUPPLEMENT NO. 1
July 2013

**CODE
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1773, enacted January 22, 2013.

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**CODE
OF THE
CITY OF
NIXA, MISSOURI**

Published in 2012 by Order of the City Council

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**CURRENT
OFFICIALS
of the
CITY OF
NIXA, MISSOURI**

Brian Steele
Mayor

Jarad Giddens
Amy Hoogstraet
Aron Peterson
Shawn Lucas
Darlene Graham
Justin Orf
City Council

Jimmy Liles
City Administrator

Nick Woodman
City Attorney

Cindy Robbins
City Clerk

OFFICIALS
of the
CITY OF
NIXA, MISSOURI
AT THE TIME OF THIS RECODIFICATION

Sam Clifton
Mayor

Tom Maher, District I Councilman
Andy Ellis, District I Councilman
Aron Peterson, District II Councilman
Chris Russell, District II Councilman
Darlene Graham, District III Councilwoman
Brian Steele, District III Councilman
City Council

Brian Bingle
City Administrator

Patrick Sweeney
City Attorney

Judy Long
City Clerk

PREFACE

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

Source materials used in the preparation of the Code were the Prior Code, as supplemented through October 16, 2011, 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 Prior 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:

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Indexes

The indexes have 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 indexes themselves 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 Roger D. Merriam, Senior Code Attorney, and Paula B. Freeman, Editor, of the Municipal Code Corporation, 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 Mr. Brian Bingle, City Administrator, Ms. Judy Long, City Clerk, and Mr. Pat Sweeney, City Attorney, 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.

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ADOPTING ORDINANCE

BILL NO. 2012-112

ORDINANCE NO. 1763

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF NIXA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NIXA, MISSOURI AS FOLLOWS:

Section 1. The Code entitled "Code of the City of Nixa, Missouri," published by Municipal Code Corporation, consisting of chapters 1 through 117, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before September 5, 2012, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding \$1,000.00. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the City of Nixa to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after September 5, 2012 that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective from and after the date of its passage. This ordinance shall be in full force and effect as of the date of its passage.

**READ TWO (2) TIMES AND PASSED BY THE CITY COUNCIL FOR
THE CITY OF NIXA, MISSOURI THIS 7TH DAY OF NOVEMBER, 2012.**

Sam Clifton/Presiding Officer

ATTEST:

Judy Long/City Clerk

APPROVED THIS 7TH DAY OF NOVEMBER, 2012

Sam Clifton/Mayor

ATTEST:

Judy Long/City Clerk

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From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omitted."

By adding to this table with each supplement, users of this City Code will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
Supp. No. 1			
1756	10-15-2012	Included	1
1757	10-15-2012	Included	1
1763	11- 7-2012	Included	1
1771	1-22-2013	Included	1
1772	1-22-2013	Included	1
1773	1-22-2013	Included	1
Supp. No. 2			
1793	8-19-2013	Included	2
1810	1-21-2014	Included	2
Supp. No. 3			
1819	8-18-2014	Included	3
1823	9-22-2014	Included	3
1827	10-20-2014	Included	3
1828	10-20-2014	Included	3
1833	1-20-2015	Included	3
1840	2- 4-2015	Included	3
1849	3-16-2015	Included	3
1850	4-20-2015	Included	3
Supp. No. 4			
1855	5-18-2015	Included	4
1859	6-15-2015	Included	4
1868	7-20-2015	Included	4
1869	7-20-2015	Included	4
1873	8-17-2015	Included	4
1881	9-21-2015	Included	4
1900	3-21-2016	Included	4
Supp. No. 5			
1919	12-19-2016	Included	5
1920	12-19-2016	Included	5
1921	12-19-2016	Included	5

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Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
1928	1-17-2017	Included	5
1930	2-20-2017	Included	5
1932	3-8-2017	Included	5
1934	3-20-2017	Included	5
Supp. No. 6			
1956	10-10-2017	Omitted	6
1960	10-23-2017	Included	6
1963	11-27-2017	Omitted	6
1974	1-22-2018	Included	6
Supp. No. 7			
1996	5-29-2018	Included	7
1997	5-29-2018	Omitted	7
1999	5-29-2018	Omitted	7
2010	8-27-2018	Included	7
2018	10-22-2018	Included	7
2022	11-26-2018	Included	7
2034	2-25-2019	Included	7
2037	3-25-2019	Omitted	7
Supp. No. 8			
1982	2-26-2018	Included	8
2059	6-24-2019	Included	8
2060	6-24-2019	Included	8
2061	6-24-2019	Included	8
2063	6-24-2019	Included	8
2066	7-22-2019	Included	8
2069	8-12-2019	Included	8
2074	8-26-2019	Included	8
2075	8-22-2019	Omitted	8
2092	11-25-2019	Included	8
2093	11-25-2019	Included	8
2100	1-27-2020	Included	8
2104	1-27-2020	Included	8
Supp. No. 9			
2095	12-16-2019	Omitted	9
2117	5-11-2020	Included	9
2118	5-11-2020	Included	9
2123	6- 8-2020	Included	9
2125	6- 8-2020	Included	9
2133	8-10-2020	Included	9
2135	8-10-2020	Included	9
2137	8-24-2020	Included	9
2163	1-11-2021	Included	9
2171	2-22-2021	Included	9
Supp. No. 10			
2180	3-22-2021	Included	10
2184	3-12-2021	Included	10

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Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
2189	5-10-2021	Omitted	10
2195	5-24-2021	Included	10
2203	6-28-2021	Included	10
2207	6-28-2021	Included	10
2212	7-26-2021	Included	10
2226	10-12-2021	Included	10
2227	10-25-2021	Included	10
2228	10-25-2021	Included	10
Supp. No. 11			
2230	11- 8-2021	Included	11
2234	11-22-2021	Included	11
2238	1-24-2022	Included	11
2239	2-14-2022	Included	11
2241	2-28-2022	Included	11
2247	3-14-2022	Included	11
Supp. No. 12			
2259	5-23-2022	Included	12
2262	6-27-2022	Included	12
2266	6-29-2022	Included	12
2269	7-25-2022	Included	12
2276	8-22-2022	Included	12
Supp. No. 13			
2282	10-11-2022	Included	13
2288	11-28-2022	Included	13
2296	2-27-2023	Included	13
2299	3- 8-2023	Included	13
2301	3- 8-2023	Included	13
2304	3-27-2023	Included	13
Supp. No. 14			
Res. No. 2023-18	4-24-2023	Included	14
2308	4-10-2023	Included	14
2310	4-24-2023	Included	14
2313	6-12-2023	Included	14
2321	8-14-2023	Omitted	14
2322	8-14-2023	Included	14
2326	8-28-2023	Included	14
2327	8-28-2023	Included	14
2330	10-10-2023	Included	14
2332	10-23-2023	Included	14
Supp. No. 15			
2318	7-10-2023	Included	15
2331	10-23-2023	Included	15
2342	1-22-2024	Included	15
2347	2-19-2024	Included	15
2348	2-19-2024	Included	15
2350	3-25-2024	Included	15

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Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
2351	3-25-2024	Included	15
2352	4-22-2024	Included	15
2356	5-28-2024	Included	15
2360	7-22-2024	Included	15

PART I

HOME RULE CHARTER*

Incorporation, Name and Boundaries Charter of the City of Nixa, Missouri (2010)

Preamble

Article I. Incorporation, Name and Boundaries

Section 1.1 Incorporation, Name and Boundaries

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Section 2.2 Construction

Article III. The Council

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Section 3.2 Composition, Eligibility, Election and Terms

Section 3.3 Compensation; Expenses

Section 3.4 Mayor Pro Tempore

Section 3.5 Prohibitions

Section 3.6 Vacancies; Forfeiture of Office, Filling of Vacancies

Section 3.7 Judge of Qualifications

Section 3.8 City Clerk

Section 3.9 Investigations

Section 3.10 Independent Audit

Section 3.11 Legislative Proceedings

Section 3.12 Revision of Ordinances

Article IV. Mayor

Section 4.1 Executive Power

Section 4.2 Mayor Qualifications; Election and Term

Section 4.3 Compensation

Section 4.4 Powers and Duties—Mayor

Section 4.5 Prohibition

Section 4.6 Vacancy, Forfeiture of Office; Filling of Vacancy

***Editor's note**—Printed herein is the City Charter, as adopted by the voters on April 6, 2010, and updated June 3, 2020 and April 4, 2023. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

State law reference—City charters, RSMo 82.020 et seq.

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- Section 5.2 Duties and Responsibilities
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- Section 5.4 Performance Review

Article VI. Municipal Court

- Section 6.1 Municipal Court Authorized to be Established by Ordinance
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- Section 8.1 Fiscal Year
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- Section 8.5 Council Action on Budget
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Article IX. Nominations and Elections

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- Section 10.2 Commencement of Proceedings; Petitioners' Committee; Notarized Affidavit
- Section 10.3 Petitions
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- Section 10.5 Referendum Petitions; Suspension of Effect of Ordinance
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Section 13.2 Prohibitions
Section 13.3 Political Activity
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Section 13.5 Notice of Suits
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**INCORPORATION, NAME AND BOUNDARIES CHARTER OF THE CITY OF NIXA,
MISSOURI (2010)****PREAMBLE**

We, the People of Nixa, Missouri, in order to build on a proud heritage, promote the well-being of our community, and secure the benefits and advantages of constitutional home rule under the Missouri Constitution, do hereby establish this Charter for the better government of our City:

ARTICLE I. INCORPORATION, NAME AND BOUNDARIES**Section 1.1 Incorporation, Name and Boundaries**

The inhabitants of the City of Nixa, within the corporate limits as now established or as hereafter established in the manner then provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Nixa.

ARTICLE II. POWERS**Section 2.1 Powers**

The City shall have all powers the General Assembly of the State of Missouri has authority to confer upon any City, provided such powers are consistent with the Constitution of this State and are not limited or denied either by this Charter or by Statute. The City shall, in addition to its home rule powers, have all powers conferred by law.

Section 2.2 Construction

The powers of the City shall be liberally construed. The specific mention of a particular power in this Charter shall not be construed as limiting the powers of the City.

ARTICLE III. THE COUNCIL**Section 3.1 Where Powers Vested**

Except as this Charter provides otherwise, all powers of the City shall be vested in the Council. The Council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the City by law.

Section 3.2 Composition, Eligibility, Election and Terms

(a) *Election by Districts.* There shall be a City Council of two (2) members per District elected by the registered voters of their respective districts, as provided in Article IX.

(b) *Qualifications.* A Council Member shall be a citizen of the United States and a resident of the City for one (1) year at the time of filing for office. A person must be a resident of the District for which the person is seeking office at the time of filing for office and must be registered to vote in that District and must remain a resident of the District during the time of service as an elected official of the City.

(c) *Election and Terms.* Council Members shall be elected to serve staggered three (3) year terms. At the first election under this charter, six (6) Council Members shall be elected. Of the Council Members elected at the first such election, one (1) Council Member from Districts One (1) and Two (2) shall serve only one (1) year terms; one (1) Council Member from Districts Two (2) and Three (3) shall serve only two (2) year terms; and one (1) Council Member from Districts Three (3) and One (1) shall serve three (3) year terms. The Council Member from each respective District receiving the greatest number of votes shall serve the longer term for that District. At each regular municipal election thereafter, Council Members shall be elected to fill the positions of those whose terms expire and shall serve full three (3) year terms.

Section 3.3 Compensation; Expenses

The Council may determine the annual compensation of Council Members by ordinance, but no ordinance increasing such compensation shall become effective for a Council Member until the commencement of a new term of office. Council Member shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 3.4 Mayor Pro Tempore

The Council shall elect annually from among its members a Mayor Pro Tempore. The Mayor Pro Tempore shall assume the powers and duties of the Mayor during the absence or disability of the Mayor, or if a vacancy occurs. While assuming the powers and duties of the Mayor, the Mayor Pro Tempore shall retain his or her vote as a Council Member, but shall not possess the additional mayoral voting power provided by Section 4.4(a), Council Meetings, and shall not possess the mayoral veto power provided by Section 4.4(c), Veto.

Section 3.5 Prohibitions

(a) *Holding Other Office.* Except where authorized by law, or pursuant to an agreement between the City and another entity of government, no Council Member shall hold any other City office or City employment during the term for which he or she was elected to the Council, and no former Council Member shall hold any compensated appointive City office or City employment until one (1) year after the expiration of the term for which the Council Member was elected.

(b) *Appointments and Removals.* Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Administrator or any of his subordinates are empowered to appoint, but the

Council as a group may express its views and fully and freely discuss with the City Administrator anything pertaining to the appointment and removal of such officers and employees.

(c) *Interference with Administration.* Except for the purpose of inquiries and investigations under Section 3.9, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator solely through the City Administrator, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 3.6 Vacancies; Forfeiture of Office, Filling of Vacancies

(a) *Vacancies.* The office of a Council Member shall become vacant upon the member's death, resignation, recall or removal from office in any manner authorized by law or this Charter or upon forfeiture of the office.

(b) *Forfeiture of Office.* A Council Member shall forfeit office if:

- i. At any time during the member's term of office the member lacks any qualification for the office prescribed by this Charter or by law; or
- ii. If the member violates any prohibition of this Charter or is convicted of a crime involving moral turpitude; or
- iii. If the member defaults in taxes to the City or fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

(c) *Filling of Vacancies.* A vacancy in the Council shall be filled by the Council by a majority vote of all its remaining members for a period running to the next regular municipal election unless such period exceeds one year. In the latter case, the Council shall make arrangements for a special election to fill such vacancy for the unexpired term.

Section 3.7 Judge of Qualifications

The Council shall be the judge of the election and qualifications of all officers elected by the voters under this charter and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. An officer charged with conduct constituting grounds for forfeiture of his or her office shall be entitled to a public hearing on demand. Decisions made by the Council under this section shall be subject to review by the courts.

Section 3.8 City Clerk

The City Clerk shall keep the journal of Council proceedings, authenticate by his/her signature all ordinances and resolutions, and record them in full in a book kept for that purpose. He/she shall perform such other duties as may be required by law, by this charter, or by the Council. The City Clerk shall hold office in accordance with Section 4.4 (g) and 4.4 (h).

Section 3.9 Investigations

The Council may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a subpoena issued in the exercise of these powers by the Council shall be guilty of an ordinance violation and punishable as prescribed by law.

Section 3.10 Independent Audit

The Council shall provide for an independent audit of all City accounts at least once a year. Such audits shall be made in accordance with generally accepted accounting standards by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The audit report shall be presented to the Council within 90 days of its preparation. A copy of the report prepared by the certified public accountant or firm of such accountants shall be kept in the City Clerk's office and shall be open to public inspection.

Section 3.11 Legislative Proceedings

(a) *Meetings.* The Council shall meet regularly at least once each month at such times and places as the Council may prescribe. The Mayor upon his or her own motion may, or at the request of three members of the Council shall, call a special meeting of the Council for a time not earlier than 24 hours after notice is given to all members of the Council then in the City. Emergency meetings may be called with less than 24 hours notice subject to state law.

(b) *Rules and Journals.* The Council shall determine its own rules and order of business. It shall cause a journal of its proceedings to be kept, and this journal shall be open to public inspection, maintained in the Office of the City Clerk.

(c) *Voting.* Voting procedures shall be adopted by ordinance or resolution establishing under what circumstances a roll call vote is required and setting forth a procedure for vote taking that provides for a degree of random voting so that a Council Member will be varied in his voting order. Such voting procedures shall be consistent with State law. In all roll call votes the names of the members of the Council shall be recorded in a journal. A majority of members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in the manner and subject to the penalties prescribed by ordinance. Unless otherwise provided by this Charter, the affirmative vote of a majority of the entire Council shall be necessary to adopt any ordinance.

The term "entire Council", as used in this Charter, shall mean the number of Council seats established by Section 3.2 (a) of this Charter and shall include, in determining the number of votes required, any vacant seat. In the case of an emergency declared by the Mayor or Governor of the State of Missouri involving the City of Nixa and caused by a catastrophic event or disaster, the Council may act on any matter before it by a majority vote of the

quorum without counting vacant seats to determine the required number of votes. If a vote on an issue does not require a vote of the "entire Council", then a majority of a quorum may act on the issue.

(d) *Forms of Ordinances.* Proposed ordinances and resolutions shall be introduced in the Council only in written or printed form. The enacting clause of all ordinances shall be:

Be it Ordained by the Council of the City of Nixa.

The enacting clause of all ordinances submitted by initiative shall be:

Be it Ordained by the People of the City of Nixa.

(e) *Procedure.* Except in the case of emergency ordinances, every proposed ordinance shall be read by title in open Council meeting two times before final passage. A copy of each proposed ordinance shall be provided for each Council Member at the time of its introduction, and at least three copies shall be provided for public inspection in the Office of the City Clerk. Persons interested in a proposed ordinance shall be given an opportunity to be heard before the Council in accordance with such rules and regulations as the Council may adopt. If the Council adopts an amendment to a proposed ordinance that constitutes a change in substance, any member of the Council may require that the proposed ordinance as amended be placed on file for public inspection in the Office of City Clerk for one additional week before final passage. In the absence of such a request, the Council may consider the amended ordinance at the same meeting.

(f) *Emergency Ordinances.* An ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency and receives the vote of two-thirds of the entire Council. An ordinance granting, reviewing, or extending a franchise shall not be passed as an emergency ordinance.

(g) *Effective Date.* Every adopted ordinance and resolution shall become effective immediately upon passage, adopting and approval by the Mayor (including deemed approval by the Mayor failing to either sign or disapprove the same within ten days of receipt, as provided in Section 4.4 (c), Veto), or any later date specified therein.

(h) *Authentication and Recording.* All ordinances and resolutions adopted by the Council shall be authenticated by a signature of the Mayor and City Clerk. The City Clerk shall record in a properly indexed book kept for the purpose of all ordinances and resolutions adopted by the Council which shall be made available for public inspection.

Section 3.12 Revision of Ordinances

Within three years after adoption of this Charter, all ordinances and resolutions of the City of a general and permanent nature shall be revised, codified, and promulgated according to a system of continuous numbering and revision as specified by ordinance.

ARTICLE IV. MAYOR**Section 4.1 Executive Power**

The executive power in the City shall be vested in a Mayor who shall be recognized as the head of the City for all legal and ceremonial purposes and by the Governor of Missouri for all purposes of military law.

Section 4.2 Mayor Qualifications; Election and Term

(a) *Qualifications.* The Mayor shall have been a resident of the City one year at the time of filing for office and a registered voter and shall remain a resident and registered voter of the City.

(b) *Election and Term.* At the regular municipal election, the Mayor shall be elected by the registered voters of the City at large to serve a three (3) year term provided by Section 9.1.

Section 4.3 Compensation

The City Council may determine the annual compensation of the Mayor by ordinance, but no ordinance changing such compensation shall become effective for the Mayor until the commencement of a new term of office. The Mayor shall receive actual and necessary expenses incurred in the performance of the Mayor's duties of office.

Section 4.4 Powers and Duties—Mayor

The Mayor shall have the following powers and duties:

(a) *Council Meetings.* The Mayor shall preside at meetings of the Council, but the Mayor shall have the right to vote only in case of a tie. The Mayor may call special meetings of the Council as provided in Section 3.11 (a), Meetings.

(b) *State of the City.* The Mayor shall at least annually present to the Council information as to the affairs of the City and any recommendations of the Mayor.

(c) *Veto.* An ordinance or resolution adopted by the Council shall be presented to the Mayor for the Mayor's approval. The Mayor shall either sign the same or, within ten (10) business days of receipt of the ordinance or resolution, return it with a written statement of the Mayor's reasons for disapproval. Ordinances or resolutions vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the Council may pass the ordinance over the veto by an affirmative vote of two-thirds (2/3) of the entire Council. If any ordinance or resolution be neither signed nor returned by the Mayor within ten (10) days of receipt by the Mayor, the same shall be deemed approved by the Mayor as if the Mayor had signed it and shall become law without his signature.

(d) *Execution of Laws.* The Mayor shall see that all laws, provisions of this Charter and acts of the Council are faithfully executed.

(e) *Execution of Documents.* The Mayor shall sign all ordinances, resolutions, proclamations, grants and executive orders. Except as otherwise provided by the City Council, the Mayor shall sign on behalf of the City all instruments conveying and/or releasing an interest in real property, all agreements and contracts between the City and other governmental entities and all Council policies.

(f) *Appointments.* The Mayor, with the advice and consent of a majority of the Council, shall appoint all members of committees, authorities, boards and commissions, except as otherwise provided by law or this charter.

(g) *Appointive Officers.* The Mayor, with the advice and consent of two-thirds (2/3) of the entire Council, shall have power to appoint a City Administrator, City Clerk, City Attorney and Chief of Police. The Mayor and City Council may employ special counsel to represent the City, either in a case of a vacancy in the office of City Attorney or to assist the City Attorney, and pay reasonable compensation therefore. After appointment, the City Clerk, City Attorney and Chief of Police shall report to the City Administrator related to day to day operation of city affairs.

(h) *Removal of Appointive Officers.* The Mayor, with the consent of a majority of the entire Council, may remove from office any appointive officer authorized under paragraph (g) at will, and any such appointive officer may be so removed by a two-thirds (2/3) vote of the entire Council, independently of the Mayor's approval or recommendation. The City Council may pass ordinances regulating the manner of removals.

(i) *Administrative Policy Matters.* The Mayor shall have the responsibility of discussing with the City Administrator any and all policy matters; however, the Mayor shall not interfere with day-to-day administration of City affairs.

(j) *Review City Administrator.* The Mayor shall preside as Chair of the City Council's annual performance review of the City Administrator.

(k) *Other Duties.* The Mayor shall exercise such other powers and perform such other duties as may be prescribed by this Charter, by ordinance or by law.

Section 4.5 Prohibition

Holding other office. Except where authorized by law, or pursuant to an agreement between the City and another entity of government, the Mayor shall not hold any other City office or City employment during the term for which the Mayor was elected, and no former Mayor shall hold any compensated appointive City office or City employment until one (1) year after the expiration of the term for which the Mayor was elected.

Section 4.6 Vacancy, Forfeiture of Office; Filling of Vacancy

(a) *Vacancy.* The office of the Mayor shall become vacant upon the Mayor's death, resignation, recall or removal from office in any manner authorized by this Charter or by law, or upon forfeiture of the office.

- (b) *Forfeiture of Office.* The Mayor shall forfeit office:
- i. If at any time during the term of office the Mayor lacks any qualifications for the office prescribed by this Charter or by law; or
 - ii. If the Mayor violates any prohibition of this Charter or is convicted of a crime involving moral turpitude; or
 - iii. Defaults in taxes to the City or fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council; or
 - iv. If the Mayor willfully violates the requirements of Section 13.1, Personal Financial Interest.

(c) *Filling of Vacancy.* A vacancy in the office of Mayor shall be filled by election at the next regular municipal election established by the Missouri election calendar in accordance with State law, for which timely notice may be given. The person elected will serve the remainder of the unexpired term. The Council shall, by majority vote of the entire Council, appoint someone to serve as Mayor if the general election is over sixty (60) days from the date of vacancy.

ARTICLE V. CITY ADMINISTRATOR

Section 5.1 Appointment and Term

There shall be a City Administrator appointed by the Mayor with the advice and consent of two-thirds (2/3) of the entire Council. The City Administrator shall be appointed solely on the basis of such person's executive and administrative qualifications. The person appointed as City Administrator shall serve for an indefinite term. The City Administrator may be removed on recommendation of the Mayor with the consent of two-thirds (2/3) of the entire Council or by a two-thirds (2/3) vote of the entire Council on its own initiative. The City Administrator shall be compensated as established by the Council.

The person appointed to the office of City Administrator shall become a resident of and reside within the City limits within six (6) months of appointment and possess qualifications provided by ordinance. The residency requirement may be waived by a two-thirds (2/3) vote of the entire Council.

Section 5.2 Duties and Responsibilities

The City Administrator shall be the chief administrative officer of the City. The City Administrator shall be responsible to the Mayor and Council for the administration of all City affairs placed in the City Administrator's charge by or under this Charter. The City Administrator shall have the following duties and responsibilities:

- (a) *Appointment and Removal of Department Directors and Employees.* The City Administrator shall appoint and, when the City Administrator deems it necessary for the good of the City, to suspend or remove City employees and appointive administrative officers, provided

for by or under this Charter, except as otherwise provided by law, this Charter or the personnel code and regulations thereunder adopted pursuant to Section 7.2 Personnel System. The City Administrator may authorize any administrative officer who is subject to the City Administrator's direction and supervision to exercise these duties and responsibilities with respect to subordinates in that officer's department, office or agency.

(b) *Administration of Departments.* The City Administrator shall direct and supervise the administration of all departments, officers and agencies of the City, except as otherwise provided by this Charter or by law.

(c) *Attend City Council Meetings.* The City Administrator shall attend all Council meetings and shall have the right to take part in discussion but may not vote. The City Administrator shall receive notice of all special meetings.

(d) *Enforcement of Laws.* The City Administrator shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by the City Administrator, or by any person subject to the City Administrator's direction and supervision, are enforced.

(e) *Budget and Capital Program.* The City Administrator shall prepare and submit the annual budget and capital program to the Mayor and Council.

(f) *Finance and Administrative Report.* The City Administrator shall submit to the Mayor and Council, and make available to the public, a complete report on the finances and administrative activities of the City at the end of each fiscal year.

(g) *Other Reports.* The City Administrator shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his or her direction and supervision.

(h) *Report of Financial Condition of the City.* The City Administrator shall keep the Mayor and Council fully advised as to the financial condition and future needs of the City and make recommendations to the Council concerning the affairs of the City.

(i) *Execution of Documents.* Except as otherwise provided by the Council or in this Charter, the City Administrator shall sign on behalf of the City all instruments required to implement the Council approved budget, all documents related to the administration and management of employees, all administrative policies, all capital project contracts and professional services agreements, and all contracts and agreements related to the administration and management of government business.

(j) *Other duties.* The City Administrator shall perform such other duties as are specified in this Charter or may be required by the Council.

Section 5.3 Acting City Administrator

By letter filed with the City Clerk, the City Administrator shall designate a qualified person to exercise the powers and perform the duties of the City Administrator during the temporary absence or disability of the City Administrator. Such person shall be appointed

solely on the basis of such person's executive and administrative qualifications. During such absence or disability, the Mayor, with the consent of the Council, may revoke such designation at any time and appoint another qualified person to serve.

Section 5.4 Performance Review

The City Administrator shall receive a performance review from the Mayor and Council at least once each year. Each Performance review shall be made part of the confidential personnel file of the City Administrator.

ARTICLE VI. MUNICIPAL COURT

Section 6.1 Municipal Court Authorized to be Established by Ordinance

The council may provide for a Municipal Court by ordinance which shall have jurisdiction to hear violations of the city's ordinances. The Municipal Court so established shall be subject to the provisions of this Article, the rules of the Missouri Supreme Court, and applicable state law. Notwithstanding the foregoing, the Council, in lieu of establishing a Municipal Court by ordinance, may elect to have violations of the City's ordinances heard and determined by a judge of the circuit court, as authorized by state law. Should the Council elect to have violations of the City's ordinances heard and determined by a judge of the circuit court, then the Council shall review the feasibility of establishing a Municipal Court by ordinance, as provided for herein, every four years.

Section 6.2 Judges

(a) *Election and Terms.* The Chief Municipal Judge shall be elected, by the qualified voters of the City, to serve a two-year term. The Chief Municipal Judge shall be the presiding judge of the municipal court. The Council may provide for associate Municipal Judges and corresponding divisions of the Municipal Court by ordinance and without further amendment of the Charter, provided said changes shall not take effect before the expiration of the affected term. Additional judges shall also be elected, by the qualified voters of the City, to two-year terms on a cycle to be determined by the ordinances creating such additional judicial positions.

(b) *Powers and Duties.* The Municipal Judge shall have such powers and duties as are conferred upon such officers by law or by ordinance.

(c) *Qualifications.* All Municipal Judges shall be licensed members of the Missouri Bar, and shall have been in active practice of law in the State of Missouri for at least three years immediately preceding his or her election.

(d) *Prohibition.* No Municipal Judge shall hold any other Nixa City office or City employment during the term for which the judge was elected, and no former Municipal Judge shall hold any compensation appointive Nixa City office or City employment until one year after the expiration of the term for which the judge was elected.

(e) *Vacancies.* An office of Municipal Judge shall become vacant upon the judge's death, incapacitation, resignation, recall or removal from office in any manner authorized by this Charter or by law, or upon forfeiture of the office.

(f) *Forfeiture of Office.* A Municipal Judge shall forfeit office: (1) if at any time during the term of office he or she lacks any qualification for the office prescribed by this Charter or by law, or (2) if the judge violates any prohibition as provided in Section 6.2(d), Prohibition, or (3) if a judge willfully violated the requirements of Section 13.1, Personal Financial Interest, (4) or if convicted of a crime involving moral turpitude.

(g) *Removal from Office.* Municipal judges may be removed from office in any manner provided by law or the Rules of the Missouri Supreme Court.

(h) *Filling of Vacancies.* The Council by a majority of the entire Council shall appoint a qualified person to fill a vacancy in the office of Municipal Judge until the next regular municipal election as established by the Missouri election calendar in accordance with state law, for which timely notice may be given, when a person will be publicly elected by qualified voters to serve the remainder of any unexpired term.

(i) *Compensation.* Compensation of Municipal Judges shall be determined by ordinance, and shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached, or the amount of fine imposed or collected. No change in compensation of an incumbent Municipal Judge shall become effective during that judge's term of office.

(j) *Substitute Judges.* The Council may appoint substitute judges to act as Municipal Judges during the temporary absence of an elected Municipal Judge or in the event of a conflict of interest of an elected Municipal Judge. Except for the two-year term requirement and the requirement that compensation be determined by ordinance, such substitute judges shall meet the other qualifications and requirements of this Section.

(k) *Applicability.* Should the Council elect to have violations of the City's ordinances heard and determined by a judge of the circuit court, as authorized by state law then the provisions of this Section shall not be applicable.

ARTICLE VII. ADMINISTRATIVE ORGANIZATION AND PERSONNEL SYSTEM

Section 7.1 Administrative Organization

(a) *Departments, Authorities and Offices.* Existing departments, agencies, authorities and offices shall be continued as constituted on the effective date of this Charter until thereafter changed pursuant to this Charter or by ordinance.

(b) *Committees, Boards and Commissions.* Existing committees, boards and commissions shall be continued as constituted on the effective date of this Charter until thereafter changed pursuant to this Charter or by ordinance.

Section 7.2 Personnel System

The Council shall adopt by ordinance or resolution a personnel code providing a comprehensive personnel system for City officers and employees. The personnel code shall provide that all appointments and promotion of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or otherwise evidence of competence. The personnel code may authorize the City Administrator to promulgate regulations dealing with personnel matters. The personnel code and any regulations promulgated pursuant thereto shall be consistent with this Charter.

ARTICLE VIII. FINANCIAL PROCEDURES**Section 8.1 Fiscal Year**

The Council shall determine the fiscal year of the City.

Section 8.2 Submission of Budget and Budget Message

Before the beginning of the fiscal year, the City Administrator shall submit to the Mayor and Council a budget for the ensuing fiscal year and an accompanying message.

Section 8.3 Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Administrator deems desirable or the Council may require. In no event shall the total proposed expenditures exceed the estimated revenues to be received plus any unencumbered cash reserves estimated to be on hand at the beginning of the budget year.

Section 8.4 Capital Program

(a) *Submission to Council.* The City Administrator shall prepare and submit to the Mayor and Council a five-year capital program prior to the final date for submission of the budget. The Council by resolution shall adopt the capital program with or without amendment on or before the last day of the month of the current fiscal year.

(b) *Contents.* The capital program shall include:

- i. A clear general summary of its contents;
- ii. A list of all capital improvements that are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- iii. Costs estimates, method of financing and recommended time schedules for each such improvement; and
- iv. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 8.5 Council Action on Budget

(a) *Notice and Hearing.* The Council shall publish a general summary of the budget and a notice in accordance with Missouri law stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public; and
- (2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(b) *Amendment Before Adoption.* After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for elimination of a projected cash deficit.

(c) *Adoption.* The Council by ordinance shall adopt the budget on or before the last day of the month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

Section 8.6 Public Records

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the City.

Section 8.7 Amendment After Adoption

(a) *Supplemental Appropriations.* If during the fiscal year the City Administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the City Administrator that the revenues available will be insufficient to meet the amount appropriated, the City Administrator shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the City Administrator, and recommendations as to any other steps to be taken. The Council then shall take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(c) *Transfer of Appropriations.* At any time during the fiscal year, the City Administrator may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the City Administrator, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office agency to another within the same Fund.

(d) *Emergency Appropriations; Effective Date.* The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption and may be made by emergency ordinance in accordance with the provisions of Section 3.11(f), Emergency Ordinances.

Section 8.8 Council Action on Taxes and Levies

The Council shall by ordinance set the tax rates and levy on the various classes of property, and the levy so established shall be certified by the City Clerk to the appropriate officials who shall compute the taxes and extend them upon the tax rolls.

Section 8.9 Sale of Bonds

The City shall be authorized to sell bonds as may now or hereafter be authorized by law. Except as otherwise required by law or this Charter, all bonds issued by the City shall be sold as prescribed by ordinance.

ARTICLE IX. NOMINATIONS AND ELECTIONS

Section 9.1 Municipal Elections

(a) *Regular Elections.* The regular municipal election shall be held as may be mandated by state law.

(b) *Special Elections.* The Council may by ordinance order special elections, fix the time for such elections, and provide for holding such elections.

(c) *Conduct of Elections.* All municipal elections shall be nonpartisan and governed by the provisions of this Charter and applicable state law. The Council by ordinance may further regulate elections, subject to the provisions of this Charter and applicable state law.

(d) *Definition of Qualified Voter.* Wherever used in the Charter, the term "qualified voter" means a registered voter who is eligible to vote in the City at large or in a Council District, whichever is applicable.

Section 9.2 Declaration of Candidacy

Declaration of candidacy for election to City office shall be made by declaration of candidacy filed with the City Clerk. No person shall file a declaration of candidacy for one City office and, without withdrawing, file for another City office to be filled at the same election. Any person violating this section shall be disqualified from running for any City office at the subject election.

Section 9.3 Determination of Election Results

The Council shall canvass the election returns and declare the results of any municipal election, regular or special, at the next regularly scheduled Council meeting following certification of the election returns by the respective verification board of each county. The candidate receiving the highest number of votes for each office shall be declared elected and inducted into office at that time.

Section 9.4 City Council Districts

There shall be three (3) City Council Districts, bounded and numbered the same as the wards that exist at the time of adoption of this Charter. District boundaries shall be established by ordinance following each decennial census. Districts shall comprise compact and contiguous territory and shall contain, as nearly possible, an equal number of inhabitants.

ARTICLE X. INITIATIVE, REFERENDUM AND RECALL**Section 10.1 General Authority**

(a) *Initiative.* The qualified voters of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a municipal election, provided that such power shall not extend to the budget or capital program, any ordinance relating to the levy of taxes, zoning or salaries of City employees, or any ordinance relating to any appropriation of money unless such ordinance provides for additional revenues therefore. The term "City employees" in this section shall not include elected officials. A proposed initiative ordinance shall contain only one subject, which shall be clearly expressed in its title. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given.

(b) *Referendum.* The qualified voters of the City shall have the power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a municipal election, provided that such power shall not extend to the budget or capital program , any emergency ordinance, any zoning or land use issues, or any ordinance levying a special assessment or providing for the issuance of special tax bills, appropriation of money, levy of taxes or salaries of city employees. The term "City employee" in this section shall not include elected officials. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given.

(c) *Recall.* Any elected official, whether popularly elected or appointed, may be removed by qualified voters. No elected official shall be subject to recall within six months after induction into office nor during the last six months of the official's term. If the elected official is retained in office upon any recall election, the official shall not be again subject to recall

during the same term of office. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given. The recall question shall be submitted to the voters in substantially the following form.

Shall _____ (Name) _____ (Title of Office) _____
be removed from office?
Yes _____ No _____

Section 10.2 Commencement of Proceedings; Petitioners' Committee; Notarized Affidavit

Any five qualified voters may commence initiative, referendum or recall proceedings by filing with the City Clerk a notarized affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the street address to which all notices to the committee are to be sent, consenting that sending notice by United States Certified Mail return receipt requested to such address shall constitute valid notice to the committee, and setting out in full the proposed initiative ordinance, or citing the ordinance sought to be reconsidered, or specifying the name and title of office of the elected official to be recalled and a general statement of the reason(s) for the recall. Not more than three (3) business days after the notarized affidavit of the petitioners' committee is filed, the City Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Section 10.3 Petitions

(a) *Number of Signatures.*

- i. *Initiative.* An initiative petition shall be signed by qualified voters of the City equal in number to at least seven percent (7%) of the total number of qualified voters registered to vote at the last regular municipal election.
- ii. *Referendum.* A referendum petition shall be signed by qualified voters of the City equal in number to at least ten percent (10%) of the total number of qualified voters registered to vote at the last regular municipal election.
- iii. *Recall.* A recall petition shall be signed by qualified voters for that office in number equal to at least ten percent (10%) of qualified voters registered to vote at the last regular municipal election.

(b) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and referendum petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. A recall petition shall state the name and title of office of the elected official sought to be recalled and the general

reason(s) for recall on the top and bottom of all pages of the petition. No petition shall seek the recall of more than one officer, but several propositions for recall may be separately submitted at the same election on the same ballot.

(c) *Notarized affidavit of Circulator.* When filed, each paper of a petition shall have attached to it a notarized affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signature of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. A petition circulator need not be a member of the petitioners' committee.

(d) *Time for Filing Petitions.*

- i. *Initiative.* An initiative petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the petitioners' committee.
- ii. *Referendum.* A referendum petition shall be filed within ninety (90) calendar days after adoption by the Council of the ordinance sought to be reconsidered.
- iii. *Recall.* A recall petition shall be filed within ninety (90) calendar days of the issuance of the appropriate petition forms to the petitioners' committee.

Section 10.4 Procedure After Filing

(a) *Certificate of City Clerk; Amendment.* Within fifteen (15) business days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by United States certified mail return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Clerk within three (3) business days after receiving the copy of the City Clerk's certificate and files a supplement to the petition within ten (10) business days after receiving the copy of such certificate. Such supplement to the petition shall comply with the requirements of subsections (b) and (c) of Section 10.3, Petitions, and within five (5) business days after it is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by United States certified mail return receipt requested as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not amend within the time required, the City Clerk shall promptly present the City Clerk's certificate to the Council, and the certificate then shall be a final determination as to the sufficiency of the petition.

(b) *Court Review; New Petition.* A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 10.5 Referendum Petitions; Suspension of Effect of Ordinance

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition; or
- (b) The petitioners' committee withdraws the petition; or
- (c) The Council repeals the ordinance; or
- (d) The election results sustaining the ordinance have been certified by the election authorities.

Section 10.6 Action on Initiative, Referendum and Recall Petitions

(a) *Initiative and Referendum; Council Action.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Section 3.11, Legislative Proceedings, or reconsider the referred ordinance voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance, within sixty (60) calendar days, or fails to repeal the referred ordinance within thirty (30) calendar days after the date the petition was finally determined sufficient, it shall at the next meeting of the Council thereafter fix a date for holding the election to submit the proposed or referred ordinance to the voters of the City.

(b) *Initiative and Referendum; Submission to Voters.* The vote on a proposed or referred ordinance shall be held not less than ninety (90) calendar days from the date the petition was finally determined sufficient and not later than the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) *Recall.* When a recall petition has been certified to the Council as sufficient by the City Clerk, the Council shall, at its next meeting after receipt of such certification, fix a date for holding the election. The election shall be held at the next available regular or special election date as established by the Missouri election calendar in accordance with state law, for which timely notice may be given.

(d) *Withdrawal of Petitions.* An initiative, referendum or recall petition may be withdrawn at any time prior to 5:00 p.m. on the final day for certification, as prescribed by state law, by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such requests, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 10.7 Results of Election

(a) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same

kind adopted by the Council and approved by the Mayor. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote to repeal it, it shall be considered repealed upon certification of the election results.

(c) *Recall.* If a majority of the qualified electors voting at a recall election shall vote in favor of the proposition to remove an official, a vacancy shall exist in the office and such vacancy shall be filled as provided by this Charter. If a majority of the qualified electors voting at a recall election shall vote against the proposition to remove an official, the official shall remain in office. An official who has been removed from office by recall shall be ineligible to be appointed to serve as a City official in any capacity at any time until one (1) year after the expiration of the term for which the member was elected.

ARTICLE XI. FRANCHISES

Section 11.1 Granting of Franchises

All public franchises or privileges which the City is authorized to grant, and all renewals, extensions and amendments thereof, shall be granted only by ordinance. No such ordinance shall be adopted within less than thirty (30) days after application therefore has been filed with the City Council, nor until a full public hearing has been held thereon. Notice of all public hearings conducted hereunder shall be given at least fifteen (15) days prior to such hearing by publishing such notice at least once to the extent required by Missouri law. No exclusive franchises shall ever be granted, and no franchise shall be granted for a term longer than twenty (20) years. No such franchise shall be transferable directly or indirectly, except with the approval of the Council expressed by ordinance after a full public hearing.

Section 11.2 Right of Regulations

All public franchises and privileges, whether or not provided for in the ordinance, shall be subject to the right of the Council to:

- (a) *Misuse-Nonuse.* Repeal the same for misuse or nonuse, or for failure to comply therewith, or shorten the term thereof for failure to comply with the provisions of this Section and regulations adopted in accordance with this Section or with the provisions of the franchise ordinance.
- (b) *Efficiency.* Require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standards of efficiency.
- (c) *Non-Discrimination.* Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) *Audit of Accounts.* Make an independent audit and examination of accounts at any time and require reports annually.

- (e) *Service to Public.* Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.
- (f) *Use of City Property.* Control and regulate the use of the City streets, alleys, bridges, easements, rights-of-way and public places, and the space above and beneath them.
- (g) *Rates and Charges.* Regulate rates, fares and charges and make readjustments thereof from time to time, if the same are not regulated by an applicable local, State or Federal agency.
- (h) *Other Regulations.* Impose such other regulations from time to time as it may determine to be conducive to the safety, welfare and accommodation of the public.

Section 11.3 Temporary Permits

Temporary permits for the operation of public services utilizing public streets, alleys, bridges, easements, rights-of-way and public places for a period not to exceed two (2) years may be granted by the Council by ordinance without public hearing. Such permit shall be subject to amendment, alteration or revocation at any time at the will of the Council, whether so provided in the ordinance or not. Any permit granted hereunder shall in no event be construed to be franchise or an extension or amendment of a franchise.

Section 11.4 Operation Beyond Franchise Period

Any operation by a franchise holder, with the tacit permission of the City, beyond the period for which the franchise was granted shall under no circumstance be construed as a renewal or extension of such franchise. Any such operation shall at most be regarded as a mere temporary permit subject, like other permits, to amendment, alteration or revocation at any time at the will of the Council.

ARTICLE XII. LICENSING, TAXATION AND REGULATION OF BUSINESS, OCCUPATIONS, PROFESSIONS, VOCATIONS AND OTHER ACTIVITIES OR THINGS

Section 12.1 Objects of Licensing, Taxation and Regulation

The Council shall have the power by ordinance to license, tax and regulate all businesses, occupations, professions, vocations, activities or things whatsoever set forth and enumerated by the statutes of this state now or hereafter applicable to constitutional charter cities, or cities of any class, or of any population group, and which any such cities are now or may hereafter be permitted by law to license, tax and regulate.

ARTICLE XIII. GENERAL PROVISIONS

Section 13.1 Personal Financial Interest

Any elected or appointed officer, employee, or member of any committee, authority, board or commission of the City who has any direct or indirect substantial financial interest (as

defined by the conflict of interest statutes of Missouri) (a) in any party transacting business with the City, or (b) in the subject matter of any City transaction, shall make known that interest and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer, employee or member in such transaction. Any City officer, employee or member who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit the office or position. Violation of this section with the express or implied knowledge of the party transacting business with the City shall render the transaction voidable by the City.

Section 13.2 Prohibitions

(a) *Activities Prohibited.*

- i. *Discrimination.* No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to, any City position or appointive City administrative office because of race, sex, age, disability, national origin, political or religious opinions or affiliations.
- ii. *False Reports.* No person shall willfully make any false statement, certificate, marks, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- iii. *Undue Influence.* No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.

(b) *Penalties.* Any person who willfully violates any of the provisions of Section 13.2 (a), Activities Prohibited, shall be guilty of an ordinance violation and upon conviction thereof shall be punishable as may be provided by ordinance.

Section 13.3 Political Activity

The City may adopt such rules and regulations as the City deems appropriate and not in conflict with Federal or State law with regard to political activity of City employees. Any such rules and regulations shall be set forth either in the personnel policy of the City or may be established by ordinance.

Section 13.4 All Ordinances Effective on Municipal Land

In addition to all other powers herein granted, the City of Nixa shall have the right and authority to administer and enforce all its municipal ordinances within all areas owned or occupied by the City which are outside of the corporate city limits.

Section 13.5 Notice of Suits

No action shall be maintained against the City for or on account of any injury growing out of alleged negligence of the City unless notice shall first have been given in writing to the City Administrator within ninety (90) days of the occurrence for which said damage is claimed, stating the place, time, character and circumstances of the injury, and that the person so injured will claim damages therefore from the City.

Section 13.6 Official Bonds and Oath

(a) Every officer of the City and the officer's assistants and every Councilmember, before entering upon the duties of his/her office, shall take and subscribe to an oath or affirmation before some court or record in the County, or the City Clerk, that the person possesses all the qualifications prescribed for the office by law; that the person will support the Constitution of the United States and of the State of Missouri, the provisions of all laws of this State affecting cities of this class, and the ordinances of the City, and faithfully demean himself or herself while in office; which official oath or affirmation shall be filed with the City Clerk.

(b) Every officer of the City, when required by law or ordinance, shall, within fifteen (15) days after appointment or election, and before entering upon the discharge of the duties of office, give bond to the City in such sum and with such sureties as may be designated by ordinance, conditioned upon the faithful performance of the duties of office, and that he/she will pay over all monies belonging to the City, as provided by law, that may come into the person's hands. The City shall pay the premiums on all such bonds.

(c) If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation or to give bond as herein required, the office shall be deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the City, or by any person in the name of the City, to the use of such person.

Section 13.7 Charter Amendment

Amendments to this Charter may be framed and submitted to the electors by a commission in the manner provided by law and the Missouri Constitution for framing and submitting a complete charter. Amendments may also be proposed by the Council, by the Charter Review Commission, or by petition of not less than ten percent of the qualified electors of the city, filed with the City Clerk in the manner prescribed for initiative petitions in Article X, setting forth the proposed amendment(s). The Council shall at once provide by ordinance that any amendment so proposed shall be submitted to the electors at the next election held in the city not less than sixty days after its passage, or at a special election held as provided by law and the Constitution for a charter. Any amendment approved by a majority of the qualified electors voting thereon shall become a part of this Charter at the time and under the conditions fixed in the amendment; sections or articles may be submitted separately or in the alternative and determined as provided by law and the Constitution for a complete charter.

Section 13.8 Charter Review Commission

Within ten (10) years of the approval of this Charter, the Council shall provide for a Charter Review Commission for a one time mandatory review. Thereafter, from time to time, but no less often than every ten (10) years, the Council shall review and consider by majority vote, providing for a Charter Review Commission to review this Charter and recommend to the voters of the City proposed amendments, if any, to this Charter. The members of the Charter Review Commission shall be selected by the Council. The Charter Review Commission shall consist of nine (9) qualified voters for the City, none of whom shall be an elected official of the City. No more than three (3) of the Commission member's shall reside in any one Council District. The Charter Review Commission shall, within twelve months of its first meeting, report to the voters as many amendments to the Charter as it shall deem advisable.

Section 13.9 Public Improvements and Special Assessments

(a) *Improvements.* The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance, consistent with applicable state law.

(b) *Special Assessments.* The procedure for levying, collecting and enforcing payment of special assessments for public improvements or special tax bills evidencing such assessments shall be governed by general ordinance, consistent with applicable state law.

Section 13.10 Proof of Ordinance

Any ordinance may be proved by a copy thereof certified by the City Clerk under the seal of the city. When printed and published by authority of the City, the certified copy shall be received in evidence in all courts, or other places, without further proof of authenticity.

Section 13.11 Separability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE XIV. TRANSITIONAL PROVISIONS**Section 14.1 Personnel System**

An employee holding a City position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system established pursuant to Section 7.2, Personnel System.

Section 14.2 Continuance of Taxes, Assessments and Fees

Except as otherwise provided by this Charter, all existing taxing authorizations, assessments and fees adopted by the people of the city, or authorized by the City, are hereby continued in full force and effect until modified or discontinued in the manner provided by this Charter or law.

Section 14.3 Ordinances to Remain in Force

All ordinances, resolutions and regulations in force at the time this Charter takes effect, or at the time this Charter is amended, which are not inconsistent with the provisions of this Charter, shall remain and be in force until altered, modified or repealed by or under authority of this Charter or ordinance.

Section 14.4 Pending Actions and Proceedings

No action or proceeding, civil or criminal, pending at the time this Charter, or any amendment hereto, shall take effect, brought by or against the City or any office, department, agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything contained herein.

Section 14.5 Continuance of Contracts, Public Improvements and Taxes

All contracts entered into by the City or for its benefit prior to the taking effect of this Charter, or any amendments hereto, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws. All taxes and assessments levied or assessed, all fines and penalties imposed, and all other obligations owing to the City that are uncollected at the time this Charter becomes effective shall continue in full force and effect and shall be collected as if no change had been made.

ARTICLE XV. SCHEDULE**Section 15.1 Election to Adopt Charter**

This Charter shall be submitted to the voters of the City of Nixa at the regular municipal election to be held April 6th, 2010. The election shall be administered by the officials now charged with the responsibility for the conduct of municipal elections.

Section 15.2 Election of City Officials

(a) *Incumbents.* All officials elected on April 6th, 2010 shall serve a one (1) year term. All officials elected prior to April 6th, 2010 who would continue in office shall continue in office for the duration of the term to which they were elected.

(b) At the municipal election in April of 2011 Council Members shall be elected to serve staggered three (3) year terms. At the first election under this charter, six (6) Council Members shall be elected. Of the Council Members elected at the first such election, one (1) Council Member from Districts one (1) and two (2) shall serve only one (1) year terms; one (1) Council member from districts two (2) and three (3) shall serve only two (2) year terms; and one (1) Council Member from Districts three (3) and one (1) shall serve three (3) year terms. Subsequent to the April 2011 election , the Council Member shall be elected to fill the positions of those whose terms expire and shall serve full three (3) year terms.

(c) At the municipal election in April of 2011 and every third year thereafter, the Mayor shall be elected to serve a full three (3) year term.

Section 15.3 Time of Taking Full Effect

After its adoption by the voters, this Charter shall be in effect at the first meeting after certification of those election results, with the Mayor and Aldermen in office at the date this Charter is adopted operating within the Charter as Mayor and Council Members.

Section 15.4 Temporary Ordinances

At its first meeting, or at any meeting held within sixty days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure likely would cause serious hardship or impairment of effective City government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted, with or without amendment, or rejection at the meeting at which it is introduced. A temporary ordinance shall become effective upon adoption, or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Section 3.11, Legislative Proceedings, for ordinances of the kind concerned.

Section 15.5 Purpose of Schedule

The purpose of the foregoing provisions is to provide a transition from the present government of the City of Nixa, Missouri, to the new government provided for in this Charter, and to inaugurate the new government under the provisions of this Charter. They shall constitute a part of this Charter only to the extent and for the time required to accomplish that aim.

CHARTER COMPARATIVE TABLE

This table shows the location of amendments to the Charter. The Charter was adopted by the voters on April 6, 2010.

Date		Section in Charter
4- 7-2020	Ord. No. 2095	4.4(g) 7.2 8.5 11.1
6- 3-2020	Home Rule Charter Update 2020	1.1 2.1, 2.2 3.1—3.12 4.1—4.6 5.1—5.4 6.1—6.3 7.1, 7.2 8.1—8.9 9.1—9.4 10.1—10.7 11.1—11.4 12.1 13.1—13.11 14.1—14.5 15.1, 15.5
4- 4-2023	Home Rule Charter Update 2023	1.1 2.1, 2.2 3.1—3.12 4.1—4.6 5.1—5.4 6.1, 6.2 7.1, 7.2 8.1—8.9 9.1—9.4 10.1—10.7 11.1—11.4 12.1 13.1—13.11 14.1—14.5 15.1—15.5

PART II

CODE OF ORDINANCES

Subpart A

GENERAL ORDINANCES

Chapter 1

GENERAL PROVISIONS

- | | |
|------------|--|
| Sec. 1-1. | How Code designated and cited. |
| Sec. 1-2. | Definitions. |
| Sec. 1-3. | Catchlines of sections; effect of history notes; references in Code. |
| Sec. 1-4. | Effect of repeal of ordinance. |
| Sec. 1-5. | Severability of parts of Code. |
| Sec. 1-6. | Amendments to Code. |
| Sec. 1-7. | Supplementation of Code. |
| Sec. 1-8. | Altering Code. |
| Sec. 1-9. | General penalty provision for code and ordinance violations. |
| Sec. 1-10. | Court costs. |
| Sec. 1-11. | Provisions considered as continuations of existing ordinances. |
| Sec. 1-12. | Prior offenses, penalties, contracts or rights not affected by adoption of Code. |
| Sec. 1-13. | Certain ordinances not affected by Code. |

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 the City of Nixa, Missouri" and may be so cited. Such ordinances may also be cited as "Nixa City Code."

(Prior Code, § 1-1)

State law reference—Ordinance codification, RSMo 71.490 et seq.

Sec. 1-2. Definitions.

In the construction of this Code and of all ordinances, the following rules shall govern, unless such construction would be inconsistent with the manifest intent of the city council:

Generally. The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter. In all interpretations, the courts shall look diligently for the intention of the city council, keeping in view, at all times, the old law, the evil and the remedy. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

Charter. The term "Charter" means the city Charter.

City council or council. The term "city council" or "council" means the City Council of the City of Nixa, Missouri.

City, municipality. The term "city" or "municipality" means the City of Nixa, Missouri.

Code. The term "Code" means the Code of the City of Nixa, 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; however if the last day is Sunday or a legal holiday, that shall be excluded.

County. The term "county" means Christian County, Missouri.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other city officer or city employee to do some act or perform some duty, it is to be construed to authorize the head of the department or such other city officer or city employee to designate, delegate and authorize subordinates to perform the required act or duty.

Gender. When any subject matter, party or person is described or referred to with words importing the masculine, females as well as males, and association and bodies corporate as well as individuals, shall be deemed to be included. Words of one gender include all other genders.

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

Liberal construction; minimum requirements; overlapping provisions. All 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. In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

May. The term "may" is to be construed as being permissive.

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

Must. The term "must" is to be construed as being mandatory.

Number. The singular includes the plural. The plural includes the singular.

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 words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officials, employees, boards, commissions or other agencies. Whenever reference is made to officials, employees, boards, commissions or other agencies by title only, the reference refers to the city officials, city employees, city boards, city commissions or other city agencies.

Owner. The term "owner," applied to a building or land, 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 or land.

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

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

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

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

Real property, premises, real estate or lands. The term "real property," "premises," "real estate" or "lands" are coextensive with lands, tenements and hereditaments.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means that portion of the street between the curbline and the adjacent property line, which is intended for the use of pedestrians.

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

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

Street. The term "street" 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.

Will. The term "will" is to be construed as being mandatory.

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 and also is equivalent to the words "Year of Our Lord."

(Prior Code, § 1-2)

State law reference—Statutory definitions, RSMo 1.020 et seq.

Sec. 1-3. Catchlines of sections; effect of history notes; references in Code.

(a) The catchlines of the several sections of this Code in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of such sections 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 merely intended to indicate the source of matter contained in the section. Editor's notes, charter references, cross references, and state law references which 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.

(c) All references to chapters, articles, divisions, subdivisions or sections are to chapters, articles, divisions, subdivisions or sections of this Code, unless otherwise specified.

(Prior Code, § 1-3)

Sec. 1-4. Effect of repeal of ordinance.

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, nor an offense committed under the ordinance repealed.

(Prior Code, §§ 1-5, 1-6)

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.

(Prior Code, § 1-4)

Sec. 1-6. Amendments to Code.

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be *prima facie* evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are re-adopted as a new code by the city council.

(b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "Section _____ of the Code of the City of Nixa, Missouri, is hereby amended to read as follows: . . . (Set out new provisions in full)"

(c) In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "The Code of the City of Nixa, Missouri, is hereby amended by adding a section (or article, chapter or other designation, as the case may be), to be numbered _____, which reads as follows: . . . (Set out new provisions in full)"

(d) All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number, chapter or other number, as the case may be.

(Prior Code, § 1-10)

Sec. 1-7. Supplementation of Code.

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

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

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances or resolutions and parts of ordinances or resolutions included in the supplemental, insofar as it is necessary to do so to embody them into a unified Code. For example, the person may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary, to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "Sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinances inserted into the Code.

(d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Prior Code, § 1-10)

Sec. 1-8. 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 1-9.

(Prior Code, § 1-11)

Sec. 1-9. General penalty provision for code and ordinance violations.

- (a) In this section, the term "violation of this Code" means:
 - (1) Doing any act that is prohibited or is made or declared unlawful, an offense, a crime, a misdemeanor, an infraction, or an ordinance violation by this Code or any ordinance of the city or by any rule or regulation which is promulgated pursuant to this Code or any ordinance of the city;
 - (2) Failure to perform any act that is required to be performed by this Code or any ordinance of the city or by any rule or regulation which is promulgated pursuant to this Code or any ordinance of the city; or
- (b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.
- (c) Except as otherwise provided in this Code, or by law a person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00.
- (d) Every day any violation of this Code exists shall constitute a separate offense.
- (e) The imposition of any penalty by this Code shall not prevent revocation or suspension of a license, permit, franchise, or other administrative sanctions authorized by this Code.

(Prior Code, § 1-12; Ord. No. 1640, 3-2010; Ord. No. 2360 , § 1, 7-22-2024)

Sec. 1-10. Court costs.

In addition to any fine which may be imposed by a Judge in any case regarding a Nixa ordinance violation filed in the 38th Circuit Court, and in addition to any other fees authorized or required by law, there shall be assessed as costs the following:

- (a) Costs of court in the amount of \$15.00 are hereby established and assessed for each such Court proceeding, in addition to any other court costs as may be required by law.
- (b) Police officer training fee. A fee of \$3.00 is hereby established and assessed as additional court costs in each court proceeding.
 - (1) Two dollars of each such court cost shall be transmitted monthly to the city and used to pay for police officer training as provided by RSMo 488.5336. The city shall not retain for training purposes more than \$1,500.00 of such funds for each certified law enforcement officer or candidate for certification employed by the city. Any excess funds shall be transmitted quarterly to the city's general fund.
 - (2) One dollar of each such court cost shall be sent to the State Treasury to the credit of the Peace Officers Standards and Training Commission Fund as provided by RSMo 488.5336.
- (c) Crime Victims' Compensation Fund. An additional sum of \$7.50 is hereby established and assessed as additional court costs in each court proceeding as authorized by RSMo 595.045,
- (d) An additional sum of \$4.00 is hereby established and assessed as additional court costs in each Court proceeding to provide operating expenses for shelters for battered persons as authorized by RSMo 488.607.
- (e) An additional sum of \$2.00 is hereby established and assessed as an additional court cost in each court proceeding to establish the inmate Prisoner Detainee Security Fund as authorized by RSMo 488.5026.
- (f) An additional sum of \$7.00 is hereby established and assessed as additional court costs in each court proceeding as a surcharge for the Statewide Court Automation Fund.
- (g) Any other lawful and reasonable cost as may be assessed by the court as additional costs of court.

(Prior Code, § 2-184; Ord. No. 1023, 8-1999; Ord. No. 1097, 8-12-1999; Ord. No. 1170, 10-2001; Ord. No. 1203, 8-1999; Ord. No. 1546, 8-2008; Ord. No. 1718, 1-4-2012; Ord. No. 2226, § 1, 10-12-2021)

Sec. 1-11. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the adoption of this Code shall be considered as a continuation thereof and not as new enactments.

(Prior Code, § 1-3)

Sec. 1-12. Prior offenses, penalties, contracts or rights not affected by adoption of Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect 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 this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

Sec. 1-13. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of any of the following ordinances or portions of ordinances that are not codified in the Code, which ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code:

- (1) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (2) Authorizing or approving any contract, deed, or agreement.
- (3) Granting any right or franchise.
- (4) Making or approving any appropriation or budget.
- (5) Providing for salaries or other employee benefits not codified in this Code.
- (6) Levying or imposing any special assessment.
- (7) Dedicating, establishing naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
- (8) Dedicating, accepting or vacating any plat or subdivision.
- (9) Levying, imposing or otherwise relating to taxes.
- (10) Rezoning specific property.
- (11) That is temporary, although general in effect.
- (12) That is special, although permanent in effect.
- (13) The purpose of which has been accomplished.

Chapter 2

ADMINISTRATION

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ARTICLE I. IN GENERAL**Sec. 2-1. Persons prohibited from applying for licenses or permits or entering into agreements with the city.**

Whenever the city administrator enforces the laws of the city determining that a violation of the state statutes, city Code of Ordinances, resolutions, contractual agreements, and written notification is given to the owner of such violation, delinquency or noncompliance, the owner shall be prohibited from applying for any and all licenses, permits or from entering into any agreement with the city until such time as the owner fully complies with all rules and regulations that the city uses in governing the city.

(Prior Code, § 1-12(d); Ord. No. 1640, 3-2010)

Sec. 2-2. Disposal of property held by the police department.

(a) This section relates to and embraces lost, stolen, strayed, abandoned, unclaimed or confiscated property which of itself is not contraband or the possession of which is not unlawful, which is now or which may hereafter come into the possession of the city police department, which is not subject to other provisions of state or federal law pertaining to the disposal of property.

(b) All personal property shall be kept by the city police department for a period of 60 days, unless the owner or person entitled to the possession of such property shall sooner claim such property and establish his ownership and right to possession thereof.

(c) If the owner or person entitled to the possession of the property shall fail to claim such property with 60 days and the city police department is unable to locate the owner, then at such time or at any time thereafter the chief of police may cause a notice to be published in a local paper for a period of not less than three days, which notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. The notice shall state that the property shall be disposed of on a certain date or dates for use in the police department, for sale by public auction (live or internet), or destroyed if the property is of such poor quality or would be a safety concern if returned to the general public. In the event the property will be sold at public auction to the highest bidder for cash, the notice shall state the time, place and method (live or internet) for the sale.

(d) If the owner or person entitled to the possession of property advertised as above shall fail to claim the same at any time before the date of disposal, then the property shall be transferred or sold to the highest bidder for cash, and the acquiring department or purchaser shall take a good and perfect title to the property. The city purchasing agent of the city is hereby authorized to contract for the services of an auctioneer and clerk (live or internet) for said auction sales and may pay for the costs of such services from the proceeds of the sale.

(e) Any funds, other than those payable to the state, received from the sale of any property as provided in this section, less the cost of the publication and keeping the same for sale and the costs of such sale, shall be paid into the general fund of the city.

(f) Whenever a weapon comes into the possession of the city police department, it is no longer needed as evidence, and there is no applicable state statute for its disposition, then the chief of police may cause such firearms to be retained for use by the city within the police department or application may be made by the chief of police to the judge of the municipal court for an order of disposition. The judge of the municipal court is authorized to order the sale of legal firearms which are in apparent working order to the highest bidder who holds a valid federal firearms license; a certified copy of said license shall be provided to the police department at the time of the sale. The judge of the municipal court is also authorized to order the destruction of ammunition or of any firearm or weapon which is illegal to possess, or a firearm which is in such worn condition as to be dangerous for use.

(g) Upon application by the chief of police, the judge of the municipal court is authorized to issue an order of destruction or disposition of any alcoholic beverage seized as a result of a violation of this Code or state law.

(h) The chief of police shall order the destruction of all property which is not disposed of as above. Said property shall be destroyed in the presence of the city police department's evidence technician and at least one police officer who both shall sign a certificate of said destruction. These certificates shall become part of the permanent records kept by the city police department.

(Prior Code, § 13-40; Ord. No. 1557, 10-2007)

Sec. 2-3. Reserve police officer program.

The city and the city police department is hereby authorized to establish a reserve police officer program and commission officers that meet the state's requirements under RSMo ch. 590 and shall perform in accordance with the policy adopted and approved by the city council.

(Prior Code, § 2-140; Ord. No. 1603, 8-2009)

Sec. 2-4. Reserved.

Editor's note—Ord. No. 2282, § 1, adopted October 11, 2022, repealed § 2-4, which pertained to conflict of interests and financial disclosure and derived from Ord. No. 2137, § 1, 8-24-2020.

Secs. 2-5—2-24. Reserved.

ARTICLE II. CITY COUNCIL**DIVISION 1. GENERAL PROVISIONS*****Sec. 2-25. City council district boundaries established.**

The area embraced within the corporate limits of the city, as now or hereafter established, is hereby divided into three districts, the boundaries of which, as set forth in sections 2-26 through 2-28 of this Code, are hereby established.

(Prior Code, § 6-13; Ord. No. 1427, 5-2006; Ord. No. 2230, § 1, 11-8-2021; Ord. No. 2241, § 6, 2-28-2022)

Editor's note—Ord. No. 2241, § 6, adopted February 28, 2022, amended the title of § 2-25 to read as herein set out. The former § 2-25 title pertained to city council districts.

Sec. 2-26. City council district 1.

Nixa city council district 1 contains all that land within the corporate limits of the City of Nixa, on the effective date of Ordinance No. 2230 (November 12, 2021), located north of Northview Road and North Street.

In addition to the foregoing area, city council district 1 shall include the following:

(Reserved)

(Ord. No. 2230, § 1, 11-8-2021; Ord. No. 2241, § 6, 2-28-2022)

Sec. 2-27. City council district 2.

Nixa city council district 2 contains all that land within the corporate limits of the City of Nixa, on the effective date of Ordinance No. 2230 (November 12, 2021), located within the area boundary described as follows:

Beginning at a point located at the intersection of the centerlines of Northview Road and 112 Main Street; thence west along the centerline of Northview Road to the end of the existing city limits; thence south to the centerline of Mount Vernon Street; thence east along said centerline to its intersection with the centerline of Main Street; thence south along said centerline to the end of the existing city limits; thence east along the existing city limits in a counter-clockwise direction to the centerline of North Street; thence east along said centerline to its intersection with the centerline of Main Street; thence north along said centerline to the point of beginning.

In addition to the foregoing area, city council district 2 shall include the following:

(Reserved)

(Ord. No. 2230, § 1, 11-8-2021; Ord. No. 2241, § 6, 2-28-2022)

***Editor's note**—Ord. No. 2247, § 2, adopted March 14, 2022, designated art. II, div. 1 title, to read as herein set out.

Sec. 2-28. City council district 3.

Nixa city council district 3 contains all that land within the corporate limits of the City of Nixa, on the effective date of Ordinance No. 2230 (November 12, 2021), located within the area described as follows:

Beginning at a point located at the intersection of the centerlines of Mount Vernon Street and Main Street; thence west along the centerline of Mount Vernon Street to its intersection with the centerline of Nicholas Road; thence west along the existing city limits in a counter-clockwise direction to the centerline of Main Street; thence north to the point of beginning.

In addition to the foregoing area, city council district 3 shall include the following:

The area annexed by Ordinance No. 2241.

The area annexed by Ordinance No. 2304.

(Ord. No. 2230, § 1, 11-8-2021; Ord. No. 2241, § 6, 2-28-2022; Ord. No. 2304, § 6, 3-27-2023)

Sec. 2-29. Councilmember and mayor compensation.

(a) *Compensation for city councilmembers.* Pursuant to Section 3.3 of the City Charter, members of the city council shall receive an annual salary of \$960.00.

(b) *Compensation for the mayor.* Pursuant to Section 4.3 of the City Charter, the mayor shall receive an annual salary of \$3,600.00.

(Ord. No. 2247, § 1, 3-14-2022)

DIVISION 2. PROCEDURES RELATED TO SCHEDULING AND CALLING CITY COUNCIL MEETINGS

Sec. 2-30. City council meetings.

(a) *Regular meetings.* The city council shall hold its regular meetings, not less than monthly, as required by the City Charter. Regular meetings of the council shall be held in the council chambers located in city hall.

(b) *Special meetings.* The mayor, or three members of city council, may call special meetings of the council whenever, in their opinion, the public business may require it. Special meetings shall be called by providing the city clerk with written notice that a special meeting is to be called along with a proposed tentative agenda for the special meeting. The city clerk shall then provide notice of the special meeting in the same manner as provided in section 2-31 of the City Code.

(c) *Mayor authorized to change meeting location or cancel meeting.* The mayor, or in their absence the mayor pro tempore, is authorized to change the location, date, and time of any regular or special meeting if the council chambers, city hall, or other location of the meeting is inaccessible or in the event of an emergency, inclement weather, or any other occurrence

which may cause unreasonable difficulty in attending the meeting. When changing the location of the meeting the mayor shall provide the changed location, date, and time on the

modified tentative agenda for said meeting. The mayor is also authorized to cancel a meeting of the council if an emergency, inclement weather, or any other occurrence which cause unreasonable difficulty in attending said meeting. The mayor is also authorized to cancel a meeting of the council if the mayor has received written communication from a quorum of councilmembers that they will not be in attendance at said meeting. Notice of such a canceled meeting shall be provided to members of city council as soon as practicable.
(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-31. Tentative agenda for regular city council meetings.

- (a) *Setting of council's regular meeting tentative agenda.*
 - (1) The mayor, or in their absence the mayor pro tempore, in coordination with the city administrator and the city clerk, shall prepare a tentative agenda for each regular meeting of the city council. Said tentative agenda shall at a minimum include the date, location, time, and whether the meeting or any portion thereof, is to be closed to the public.
 - (2) The mayor, or mayor pro tempore, as the case may be, shall not refuse to include on any tentative agenda any ordinance or resolution which has been requested for introduction by a motion of the council or which has been requested in writing by the city administrator or city attorney.
- (b) *Notice of council's regular meeting tentative agenda - how provided.*
 - (1) After the tentative agenda for a regular meeting has been prepared and provided to the city clerk, the city clerk shall provide a copy of the agenda as soon as practicable and in the following manner:
 - a. Electronically mailed to each member of council, or in lieu thereof provided to each member of council by other reasonable means. However, the attendance of any member of council at such meeting shall be deemed to be a waiver of this requirement by the members of council in attendance;
 - b. Posted by the city clerk at a conspicuous location at city hall; and
 - c. In compliance with any applicable provisions of RSMo ch. 610.

(Ord. No. 2247, § 3, 3-14-2022)

DIVISION 3. PROCEDURES RELATED TO THE CONDUCT OF CITY COUNCIL MEETINGS.

Sec. 2-32. Presiding officer—how determined: authority and duties.

- (a) The presiding officer of all meetings of the city council shall be the mayor, or in their absence the mayor pro tempore. In the absence of the mayor and the mayor pro tempore, the city clerk, or their designee, shall call the council to order, whereupon a temporary presiding

officer shall be elected by the members of council present. Such temporary presiding officer shall continue to serve for the duration of the meeting or upon the arrival of the mayor or mayor pro tempore.

- (b) The presiding officer shall have the authority and duty to:
- (1) Preserve order and decorum at all meetings of the city council.
 - (2) State every question coming before the council, announce the decision of the council on all subjects, and decide all questions of order. The presiding officer's authority regarding questions of order shall be subject only to an appeal of the city council. Upon such a motion to appeal, a majority vote of the members of council present shall govern and conclusively determine such questions of order. Motions to appeal shall be immediately presented and voted upon by the council.
 - (3) Sign all ordinance, resolutions, or other measures adopted by the council in the presence of the presiding officer for the purpose of attesting to the adoption of said measure, their signature being authenticated by the city clerk or designee.
 - (4) Call the city council to order.
 - (5) During any meeting, and with the consent of the city council, arrange the agenda in any order necessary to accomplish the city's business in the most convenient manner for council.
 - (6) From time to time, during a meeting, the presiding officer may make such rules as they deem necessary to fulfill and carry out the intent of the provisions of this article. Such rules may be overturned by a majority vote of the members of the council present at the meeting.
- (c) The presiding officer shall not be deprived of any rights or privileges that they may enjoy as the mayor or as a councilmember due to their role as presiding officer.

(Ord. No. 2247, § 1, 3-14-2022)

Sec. 2-33. General provisions related to city council meetings.

- (a) At each meeting of the city council, the following procedures shall be observed:
- (1) *Quorum.* A majority of the city council shall constitute a quorum at any meeting of the council. In the absence of a quorum, a smaller number may adjourn from time to time and may compel the attendance of absent members.
 - (2) *Roll call.* Before the business of the city council proceeds, the city clerk, or their designee, shall call the roll of the members, and the names of those present shall be entered into the minutes.
 - (3) *Meetings open to the public - exceptions.* All meetings of the city council shall be open to the public, except city council may close such meetings as authorized by law.

- (4) *Sergeant-at-arms.* The chief of police, or such members of the police department as they may designate, shall be sergeant-at-arms of city council meetings. They shall carry out all lawful orders and instructions given by the presiding officer to maintain order and decorum at city council meetings.

(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-34. Applicability of Robert's Rules of Order, additional parliamentary procedures - established.

(a) *Robert's Rules of Order - applicability.* Except as it conflicts with the city charter and the provisions of the city code, the city council shall be guided in matters of parliamentary procedure by the most recent compilation of rules known as Robert's Rules of Order. Newly Revised. However, any motion or action approved by a majority of council shall control over the text of Robert's Rules of Order. Council intends that Robert's Rules of Order shall merely guide the parliamentary proceedings of the council.

(b) *Motion to postpone to a certain time.* A motion to postpone to a certain time shall delay the consideration of an item to a date certain. Should the city council not conduct a meeting on the date certain referenced in such motion, the item shall be automatically postponed to the next available regular city council meeting. The council may, by motion, consider a postponed item any time prior to the date certain expressed in the original motion.

(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-35. Times when citizens may address the council - manner of such communication.

(a) The presiding officer shall provide an opportunity during council meetings for public comment on each ordinance and resolution before its final passage. Comments provided during such period shall be related to the proposed item. Persons providing public comments shall give their comments from the podium or other designated area, shall give their name and address for the record, and shall limit their comments to five minutes. Nothing herein shall be construed as prohibiting the council or the mayor from inquiring further of the speaker and allowing the speaker to respond.

(b) Any person may direct written communication to the city council on any matter concerning the city's business by directing the communication to the city council through the city clerk.

(c) The city council shall allow for time during all regular meetings for persons to address the council on any matter not then before the council. Any person desiring to personally address city council at a regular meeting on any matter not then before the council shall notify the city clerk in writing of their intent to speak and the topic of their remarks prior to the council arriving at that portion of the agenda. Persons desiring to address the city council in this manner shall give their comments from the podium or other designated area,

shall give their name and address for the record, and shall limit their comments to five minutes. Nothing herein shall be construed as prohibiting the council or the mayor from inquiring further of the speaker and allowing the speaker to respond.

(d) All remarks or comments from the public shall be addressed to the council as a body and not to any individual member.

(e) No person, other than the council and individuals recognized to address the council, shall be permitted to enter the discussion with the council.

(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-36. Decorum.

(a) *Councilmembers and the mayor.* While the city council is in session, members of council and the mayor shall preserve order and decorum, and shall not disturb any other member while speaking, or refuse to obey the orders of the council or the presiding officer.

(b) *All other persons.* No person shall disturb or interfere with the order, decorum, or proceedings of any council meeting. The sergeant-at-arms, at the direction of the presiding officer, shall remove any person violating the provisions of this subsection.

(c) *Signs, displays, or other devices.* No person shall carry or display a sign or other visual device which may obstruct the view of others inside any location where the council may be meeting or any other similar type of written communication that is carried or displayed. Nothing contained in this section shall be construed to prohibit members of city staff or other agents of the city or those invited by the council to speak on a topic from using visual materials when presenting to the city council. The city council hereby determines that signs or displays in the council chambers, or any other location where the council may be meeting, may obstruct the view of citizens, can cause injury, and negatively affect the decorum of city council meetings, and are hereby prohibited for such reasons.

(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-37. Voting via videoconferencing - limitation.

Pursuant to section RSMo 610.015, members of the city council and the mayor are authorized to participate in roll call voting via videoconferencing. Notwithstanding the authorization contained in RSMo 610.015, councilmembers and the mayor shall be prohibited from voting on items that require a roll call vote via videoconference if they have utilized said authorization for the prior three consecutive meetings.

(Ord. No. 2247, § 3, 3-14-2022)

DIVISION 4. PROCEDURES RELATED TO CITY COUNCIL ACTIONS

Sec. 2-38. Ordinances, resolutions, and other actions - provisions related thereto.

(a) *Preparation of ordinances and resolutions.* All ordinances and resolutions shall be prepared or approved by the city attorney.

(b) *Prior approval by city administrator.* All ordinances or resolutions shall, before city council consideration, have first been examined and approved by the city administrator. If the city administrator shall not approve of a measure, then they shall provide a written memorandum detailing the reasons for lack of approval. The city administrator shall advise the council of the reasons for lack of approval and the council may then proceed with consideration of the ordinance or resolution.

(c) *Introduction of ordinances and resolutions.* No ordinance or resolution shall be considered by city council unless the introduction of such ordinance or resolution has been requested by a motion of the council: requested in writing by the city administrator or the city attorney; or if the item was provided to the council after its review by a council committee.

(d) *Motions shall be made in the affirmative.* To avoid confusion, all motions of the city council shall be made in the affirmative.

(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-39. Manner of voting.

(a) *Ordinances.* When the question before city council is the approval of an ordinance, the council shall vote by roll call. When the presiding officer calls for a roll call vote, the city clerk, or designee, shall randomly call on the names of councilmembers and record the vote of each councilmember. Pursuant to City Charter section 3.11(c), the affirmative vote of a majority of the entire council is required to adopt an ordinance.

(b) *Resolutions and motions.* Resolutions and motions may be approved by a voice vote of the council. A roll call vote is not required for the approval of such actions. Any member of council may request that a resolution or motion be considered by a roll call vote, in which event, the procedures in section 2-39(a) shall apply to said vote. The affirmative vote of a majority of councilmembers present at the meeting is required to adopt any resolution.

(c) *Abstentions - how counted for purposes of mayoral vote in the event of a tie.* For purposes of determining whether the mayor is authorized to vote on an item pursuant to City Charter section 4.4, abstentions by members of council shall be considered a no vote for the purpose of determining whether a tie vote has occurred.

(Ord. No. 2247, § 3, 3-14-2022)

DIVISION 5. PROCEDURES RELATED TO COMMITTEES OF THE COUNCIL

Sec. 2-40. Standing committees.

There is hereby established the following standing committees of the city council:

- (1) *Appointments committee.* There is hereby established an appointments committee which shall be comprised of three members of the city council and shall carry out the following duties:
 - a. Upon written referral by the mayor, the committee shall review and make recommendations on the mayor's proposed appointments to the planning and zoning commission.

- b. The committee shall, within 30 days of a written referral from the mayor, provide recommendations on the mayor's proposed appointments to the city council. If the committee shall fail to provide recommendations within 30 days, the mayor may submit their proposed appointments to the full city council.
- c. The committee may hear public comments on the proposed appointments.
- d. The committee may hear from the individuals proposed to be appointed by the mayor.

(Ord. No. 2247, § 3, 3-14-2022; Ord. No. 2342, § 1, 1-22-2024)

Sec. 2-41. Special committees.

The council is authorized to establish, from time to time, special committees of the city council, which shall investigate and report to the council on specific items referred thereto. Special committees are intended to have a limited duration and shall be established by resolution.

(Ord. No. 2247, § 3, 3-14-2022)

Sec. 2-43. Committees generally.

- (a) Except for the committee of the whole, each committee shall meet at the call of the chair, or upon the call of at least half of the committee, with reasonable notice to the other members. Meetings of all committees may be held at such time and place as the committee shall determine for its convenience.
- (b) The chair shall prepare a tentative agenda for each meeting of the committee. Said agenda shall include the date, location, time, and whether the meeting, or any portion thereof, is to be closed to the public.
- (c) No committee shall take up any matter unless the city council or the mayor shall have first referred such matter to the committee.
- (d) The committee may allow for public comment.
- (e) The chair shall have the authority to preserve the strict order and decorum at all meetings of the committee.
- (f) All committees of the city council shall make their recommendations or reports to the entire council and such actions shall be included in the minutes of the committee.
- (g) The mayor shall be an ex officio non-voting member of every standing or special committee.
- (h) The mayor, with the advice and consent of a majority of the council, shall appoint all members of standing and special committees.

(i) The chairs of standing and special committees shall be appointed by the mayor, with the advice and consent of the council. The chairs shall serve as the chair of their respective committees for one-year terms and shall continue to serve until a different appointment is made by the mayor and confirmed by the council.

(j) The council, by majority vote, shall be authorized to remove any member of a standing or special committee.

(Ord. No. 2247, § 3, 3-14-2022; Ord. No. 2342, § 2, 1-22-2024)

Sec. 2-43. Committees generally.

(a) Except for the committee of the whole, each committee shall meet at the call of the chair, or upon the call of at least half of the committee, with reasonable notice to the other members. Meetings of all committees may be held at such time and place as the committee shall determine for its convenience.

(b) The chair shall prepare a tentative agenda for each meeting of the committee. Said agenda shall include the date, location, time, and whether the meeting, or any portion thereof, is to be closed to the public.

(c) No committee shall take up any matter unless the city council shall have first referred such matter to the committee.

(d) The committee may allow for public comment.

(e) The chair shall have the authority to preserve the strict order and decorum at all meetings of the committee.

(f) All committees of the city council shall make their recommendations or reports to the entire council and such actions shall be included in the minutes of the committee.

(Ord. No. 2247, § 3, 3-14-2022)

Secs. 2-44—2-53. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Secs. 2-54—2-79. Reserved.

DIVISION 2. CITY CLERK

Sec. 2-80. Care of official papers; administer oaths.

The city clerk shall safely and properly keep all records, papers, other documents, and files belonging to the city, which may be entrusted to their care. The city clerk shall maintain the records, papers, other documents, and files belonging to the city in conformance with the

state secretary of state's records retention schedules. The city clerk shall annually provide to city council a list of records that have met retention and the council may authorize the destruction of such records by resolution. The city clerk shall administer all official oaths. (Prior Code, § 2-92; Ord. No. 2310, § 1, 4-24-2023)

Sec. 2-81. City licenses.

The city clerk shall prepare all licenses and shall keep a correct record of all licenses issued.

(Prior Code, § 2-93)

Sec. 2-82. Care of tax books.

It shall be the duty of the city clerk, or the Christian County collector if contracted, when the city council shall have fixed the rate of taxation for any given year, to make out appropriate and accurate tax books, and shall therein set out, in suitable columns, opposite the name of each person and the item of taxable property as returned by the county assessor and the board of equalization, the amount of taxes, whether general or special, due thereon. (Prior Code, § 2-94)

Sec. 2-83. Corporate seal.

The city clerk shall be the custodian of the corporate seal of the city, and of all papers or documents belonging to said city, and of all official bonds of the city officials, and attest with his signature and the seal of the city all papers which by law or ordinance are required to have the seal affixed.

(Prior Code, § 2-95)

Sec. 2-84. Certificate of election or appointment.

The city clerk shall issue and deliver to each person elected or appointed to any office in the city a certificate of his election or appointment, and attest by signing his name and affixing the seal of the city to the same and attest as aforesaid all commissions directed by ordinance to be issued.

(Prior Code, § 2-96)

Secs. 2-85—2-111. Reserved.

DIVISION 3. CITY ATTORNEY

Sec. 2-112. Defender of all suits against city.

It shall be the duty of the city attorney to prosecute or defend all suits, either civil or criminal, in any court to which the city is a party or in which it is directly concerned, and shall defend in all actions brought against any officer, agent, or servant of the city which may arise from his or their official acts.

(Prior Code, § 2-111)

Sec. 2-113. Prosecutor on behalf of city.

The city attorney shall prepare all charges and complaints against any party or parties charged with violating any ordinance of the city and shall prosecute the same on behalf of the city.

(Prior Code, § 2-112)

Sec. 2-114. Affidavits on behalf of city.

The city attorney shall make all affidavits on behalf of the city in all cases where the same may be necessary in procuring change of venue or taking appeals, or to any other matter necessary to proper legal proceedings.

(Prior Code, § 2-113)

Sec. 2-115. Reporting any suit pending.

The city attorney shall report in writing to the city council, and give opinions on any legal point when required to do so by said council.

(Prior Code, § 2-114)

Sec. 2-116. Attendance at council meetings; legal opinions.

The city attorney shall attend all meetings of the city council, and give opinions on any legal point when required to do so by the city council and approve all ordinances and legal documents necessary in conducting the affairs of the city.

(Prior Code, § 2-115)

Sec. 2-117. Report to council before leaving office.

The city attorney shall, at the last regular meeting of the city council before he goes out of office, make a report to the city council, in writing, containing a statement of all the cases pending in any court, and the condition thereof, and also a brief statement of judgments obtained and not satisfied, for and against the city, in civil cases. A minute of said statement shall be noted on the journal of the meeting and the statement left on file with the city clerk for the benefit of his successor in office.

(Prior Code, § 2-117)

Secs. 2-118—2-147. Reserved.

ARTICLE IV. FINANCE***Sec. 2-148. Disbursement of funds.**

No money of the city shall be expended until all bills are approved and checks signed by the city clerk and finance director. In their absence the mayor or mayor pro tem shall execute all bills.

(Prior Code, § 2-5; Ord. No. 1771, 1-22-2013)

Sec. 2-149. Charges for insufficient bank funds.

The officers of the city shall charge the amount established in section 2-151 of this Code as a fee, in addition to the fee charged by a financial institution, for any check that is written to the city and returned insufficient. This charge also applies in the case of direct withdrawals or closed accounts which are redeemed by a customer.

(Prior Code, § 14-50-3; Ord. No. 1668, 9-13-2010; Ord. No. 2331, § 2, 10-23-2023)

State law reference—Service charge authorized, RSMo 570.120.

Sec. 2-150. Reserved.

Editor's note—Ord. No. 2318, § 1, adopted July 10, 2023, repealed § 2-150, which pertained to purchasing agent and derived from Ord. No. 1772, 1-22-2013.

Sec. 2-151. Fees for city services or other charges.

(a) *Generally.* The amount authorized for various city fees shall be in accordance with the provisions of this section. In the event that the amount of a fee contained in this section conflicts with an amount established by another section of this Code, the amount set forth in this section for the fee shall control.

(b) *Fees imposed.* The fees set forth in this section shall be charged for the various services, licenses, and approvals referenced herein:

(1) Fees administered by the city clerk:

Business Licenses		
Fee Name	Fee Amount	Fee Description/Code Section
Business License	\$50.00/New \$25.00/Renewal	Duration of license begins January 1 and ends December 31. (See Sec. 12-21, 12-24, & 16-420).
Business License Late Fee	\$10.00	If License Application is not submitted by March 31. (See Sec. 12-21 & 12-24).
Itinerant Merchant License (Solicitor's License)		
Fee Name	Fee Amount	Fee Description/Code Section
Solicitor License	\$100.00 license	Duration of license begins January 1 and ends December 31. (See Sec. 12-28).
Miscellaneous Permits		
Fee Name	Fee Amount	Fee Description/Code Section
Recycling Permit	\$36.00	Annual Permit for those who are not users of the City's solid waste management system. (See Sec. 22-374).

***State law reference**—Financial administration and indebtedness, RSMo ch. 95.

Golf Cart Permit	\$15.00	Annual Permit. (See Sec. 20-401).
Alcoholic Beverages		
Fee Name	Fee Amount	Fee Description/Code Section
Malt liquor Original Package	\$75.00	(See Sec. 4-4).
Intoxicating liquor-all kinds- original package	\$150.00	(See Sec. 4-4).
Malt liquor and light wines	\$75.00	(See Sec. 4-4).
Common eating and drinking places	\$450.00	(See Sec. 4-4).
Wine and brandy manufacturer	\$300.00	(See Sec. 4-4).
Microbrewery	\$300.00	(See Sec. 4-4).
Intoxicating liquor-all kinds- by the drink	\$450.00	(See Sec. 4-4).
Intoxicating liquor-original package (Sunday Sales)	\$300.00	Additional Fee. (See Sec. 4-4).
Restaurant bars (Sunday Sales)	\$300.00	Additional Fee. (See Sec. 4-4).
Common eating and drinking places (Sunday Sales)	\$300.00	Additional Fee. (See Sec. 4-4).
Liquor by the drink-all kinds (Sunday Sales)	\$300.00	Additional Fee. (See Sec. 4-4).
Temporary permit-by the drink for certain organizations	\$37.50	(7 days max.). (See Sec. 4-4).
Tasting permit	\$37.50	(See Sec. 4-4).
Liquor catering permit	\$15.00	Per each calendar day. (See Sec. 4-4).
Nuisance Abatement Fees		
Fee Name	Fee Amount	Fee Description/Code Section
Nuisance Abatement Administrative Fee	\$77.25	Fee charged for staff time associated with nuisance abatement actions. (See Sec. 14-26).

(2) Fees administered by the finance department:

Returned Check Fee		
Fee Name	Fee Amount	Fee Description/Code Section
Returned Check Fee	\$25.00 plus any fees charged by the relevant financial institution.	(See Sec. 2-149).
Utility Billing Fees		
Fee Name	Fee Amount	Fee Description/Code Section
Late Fee	10% of the outstanding balance.	Charged to outstanding balance after due date. (See Sec. 22-48 & 22-312).
Recycling Center Charge	\$1.50	Fee charged to each user of the City's solid waste collection system for use of the City recycling center. (See Ordinance No. 898. Rate approved by the voters on 1-23-1995).
Service Charge	\$50.00	Charged when reconnection is required after a user has been disconnected for nonpayment. (See Sec. 22-48 & 22-312).

Trip Charge	\$25.00	Additional fee when a reconnection is required after a user has been disconnected for non-payment and a reconnection request is conducted after business hours.
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(3) Fees administered by the planning and development department:

Planning and Development Fees		
Fee Name	Fee Amount	Fee Description/Code Section
Rental Inspection	\$25.00	(See Sec. 101-11, 103-31, & 103-33).
Rental Inspection Penalty	\$50.00	(See Sec. 103-33).
Reinspection Penalty	\$25.00	Applies when City is required to reinspect a unit. (See Sec. 103-33).
New Commercial Building Permit	\$0.25 per square feet	(See Sec. 101-11 & 117-100).
Residential Plan Review Fee	\$50.00	(See Sec. 101-11).
Commercial Plan Review Fee	Fee amount is based on the hourly rate charged by the City's authorized third-party reviewer. The city shall provide an estimate of the fee amount to applicant. Additional review time shall be charged to the applicant before a certificate of occupancy is issued.	Fee charged for the inspection by the City of commercial building plans when an applicant is seeking a certificate of occupancy for said building. (See Sec. 101-11).
New Single Family Structure Permit	\$0.47 per square feet of the structure	(See Sec. 101-11).
Residential Alteration	\$0.37 per square footage effected by the remodel. When mechanical alterations are part of the remodel \$40 shall be charged. When plumbing alterations are part of the remodel \$40 shall be charged. When electrical alterations are part of the remodel \$40 shall be charged.	Fee charged for the permitting and inspection by the City of a remodel of a residential building (internal or external remodel). (See Sec. 101-11).
Commercial Remodel	\$0.25 per square footage effected by the remodel. When mechanical alterations are part of the remodel \$60 shall be charged. When plumbing alterations are part of the remodel \$60 shall be charged. When electrical alterations are part of the remodel \$60 shall be charged.	Fee charged for the permitting and inspection by the City of a remodel of a commercial building. (See Sec 101-11).
Commercial Alterations	\$60.00	Fee charged for the permitting and inspection by the City of the infill of a commercial building in which no structural, mechanical, electrical, or plumbing modifications are part of the infill.(Sec. 101-11).

Accessory Building	\$40.00 When mechanical alterations are part of the remodel \$40 shall be charged. When plumbing alterations are part of the remodel \$40 shall be charged. When electrical alterations are part of the remodel \$40 shall be charged.	Fee charged for the permitting and inspection by the City of the placement or construction of an accessory building. (See Sec. 117-278 & Sec. 103-1 (International Residential Code).
Fence	\$40.00	Fee charged for the permitting and inspection by the City of the placement or construction of fence. (See Sec. 105-60).
Above Ground Pool	\$80.00	Fee charged for the permitting and inspection by the City of the placement or construction of an above ground pool. (See Sec. 117-278).
In Ground Pool	\$160.00	Fee charged for the permitting and inspection by the City of the placement or construction of an in-ground pool. (See Sec. 117-278).
Deck & Patio	\$75.00	Fee charged for the permitting and inspection by the City of the placement or construction of a deck. (See Sec. 117-278).
Solar Permit	\$40.00	Permit issued for the inspection of the electrical connection of solar panel arrays.
Sign	\$50.00	Fee charged for the permitting and inspection by the City of the placement or construction of a sign. (See Ch. 113).
Temporary Sign	\$25.00	Fee charged for the permitting and inspection by the City of the placement or construction of a temporary sign. (See Ch. 113).
Fireworks Stand	\$100.00	Fee charged for the permitting and inspection by the City of the placement or construction of a fireworks stand. (See Ch. 16, Art. IV, Division 4).
Storm Shelter	\$80.00	Fee charged for the permitting and inspection by the City of the placement or construction of a storm shelter. (See Sec. 101-11).
Building Demolition	\$75.00	Fee charged for the permitting and inspection by the City of the removal or demolitions of a structure. (See Sec. 101-11).
Annexation	\$500.00	Fee charged for the review and processing of a voluntary petition for annexation of real property into the City limits.
Zoning Map Amendment (Rezone)	\$250.00	Fee charged for the review and processing of an application for a zoning map amendment (petition to rezone). (See Sec. 101-11).
Special Use Permit	\$250.00	Fee charged for the review and processing of an application for the issuance of a special use permit. (See Sec. 101-11).
Minor Subdivision Plat	\$150.00	Fee charged for the review and processing of an application for a minor subdivision plat. (See Sec. 101-11).
Major Subdivision Preliminary Plat	\$350.00 + \$1.00 per lot created	Fee charged for the review and processing of an application for a major subdivision preliminary plat. (See Sec. 101-11).
Major Subdivision Final Plat	\$200.00 + \$1.00 per lot created	Fee charged for the review and processing of an application for a major subdivision final plat. (See Sec. 101-11).
Variance	\$200.00	Fee charged for the review and processing of an application for a variance to the City Board of Adjustment. (See Sec. 101-11).

Easement and Right-of-Way Vacation	\$100.00	Fee charged for the review and processing of an application for the vacation of a City easement or right-of-way. (See Sec. 101-11).
Planning and Development Fees - Impact Fees (Sewer)		
Fee Name	Fee Amount	Fee Description/Code Section
Residential Sewer Impact Fees	\$863.00 (3/4") \$1,439.00 (1") \$4,606.00 (2") \$9,212.00 (3") \$14,394.00 (4")	Fee is based on the size of water meter. (See Ch. 109).
Apartment Complex	\$609.00 (per unit)	(See Ch. 109).
Duplex Homes	\$609.00 (per unit)	(See Ch. 109).
Planning and Development Fees - Impact Fees (Police)		
Fee Name	Fee Amount	Fee Description/Code Section
Commercial Shopping Center	\$389.42 (25,000 square feet or less) \$359.35 (25,001 - 50,000 square feet) \$312.94 (50,000 -100,000 square feet) \$269.59 (100,001 square feet or more)	(See Ch. 109).
General Office	\$179.49 (10,000 square feet or less) \$144.92 (10,001 - 25,000 square feet) \$123.39 (25,001 square feet or more)	(See Ch. 109).
Medical/Dental Office	\$285.96	(See Ch. 109).
Hospital	\$132.81	(See Ch. 109).
Nursing Home	\$45.90	(See Ch. 109).
Business Park	\$100.99	(See Ch. 109).
Light Industrial	\$55.16	(See Ch. 109).
Warehouse	\$39.25	(See Ch. 109).
Mini-Warehouse	\$19.78	(See Ch. 109).
Churches-without weekday school or daycare	\$19.78	(See Ch. 109).
Lodging	\$65.00 (per room)	(See Ch. 109).
Day Care	\$35.00 (per student)	(See Ch. 109).
Apartment Complex	\$106.00 (per unit)	(See Ch. 109).
Duplex Homes	\$106.00 (per unit)	(See Ch. 109).
Residential Permit	\$106.00	(See Ch. 109).
Planning and Development Fees - Impact Fees (Parks)		
Fee Name	Fee Amount	Fee Description/Code Section
Apartment Complex	\$307.00 (per unit).	(See Ch. 109).
Duplex Homes	\$307.00 (per unit)	(See Ch. 109).
Residential Permit	\$435.00	(See Ch. 109).

(4) Fees administered by the police department:

General Police Department Fees		
Fee Name	Fee Amount	Fee Description/Code Section

Finger Printing Services	\$10.00 per fingerprint card.	Fee charged for providing fingerprinting services to the public.
Animal Control		
Fee Name	Fee Amount	Fee Description/Code Section
Impound Fee	\$20.00 minimum plus \$3.00 per day after first.	(See Sec. 6-34).
Animal Licensing Fee (dogs and miniature pigs)	\$2.00 spayed/neutered; \$3.00 intact.	(See Sec. 6-37).

(5) Fees administered by the public works department:

Public Works - Electric		
Fee Name	Fee Amount	Fee Description/Code Section
Temporary Electric Service	\$90.00	Fee charged for providing temporary electric service, with meter, during construction.
Permanent Electric Service (200 AMP)	\$90.00	Fee charged for providing permanent electric service, with a meter, for service up to 200 amps.
Permanent Electric Service (400 AMP)	\$185.00	Fee charged for providing permanent electric service, with a meter, for service above 200 amps and up to 400 amps.
Permanent Commercial and Industrial Electric Service	\$575.00	Fee charged for permanent commercial or industrial electric service for both single and three-phase power, with meter.
Permanent Net Metering Electric Service	\$90.00 (200 AMP) \$185.00 (400 AMP)	Same as permanent service fees above but with a net meter for measuring customer owned solar production.
Primary Conduit Installation	\$3.00/ linear ft.	Fee charged to developers to offset cost for electric materials in new subdivisions. This is based on the number of linear feet of conduit to be installed.
Three Phase Conduit Installation	\$9.00/ linear ft.	Same as above but with three pipes.
LED Street Light	\$1,450.00 per light.	To cover a portion of the cost of new street light installation in new subdivisions.
Small Cell Wireless (Up to 5 antennae)	\$500.00	This is for application review and approval. There are or may be other associated costs such as "make-ready" cost which are incurred by the City to upgrade the structure. (See Sec. 25-8).
Small Cell Wireless (Each antenna over 5)	\$100.00	This is for application review and approval. There are or may be other associated costs such as "make-ready" cost which are incurred by the City to upgrade the structure. (See Sec. 25-8).
Public Works - Water		
Fee Name	Fee Amount	Fee Description/Code Section
Wireless Telecommunication Tower (New Support Structure or Substantial Modification)	\$1,500.00	Fee charged for application review. (See Sec. 111-175).
Wireless Telecommunication Tower (Collocation)	\$500.00	Fee charged for application review. (See Sec. 111-175).
¾" Water Meter (Customer Install)	\$165.00	Fee charged for providing water service. Charge includes the meter and City's installation of meter. Customer installs service.
1" Water Meter (Customer Install)	\$290.00	Fee charged for providing water service. Charge includes the meter and City's installation of meter. Customer installs service.
2" Water Meter (Customer Install)	\$660.00	Fee charged for providing water service. Charge includes the meter and City's installation of meter. Customer installs service.

4" Water Meter (Customer Install)	Any supplied materials plus the meter cost	Fee charged for providing water service. Charge includes the meter and City's installation of meter. Customer installs service. Due to the price of certain materials being unstable and varying, the actual amount charged is to be based on the actual cost to the City of any material to be supplied.
¾" Water Meter (City Install)	\$1,200.00	Fee charged for providing water service. Charge includes the meter and City's installation of meter and City's installation of service.
1" Water Meter (City Install)	\$1,500.00	Fee charged for providing water service. Charge includes the meter and City's installation of meter and City's installation of service.
2" Water Meter (City Install)	\$3,500.00	Fee charged for providing water service. Charge includes the meter and City's installation of meter and City's installation of service.
4" Water Meter (City Install)	Inventory replacement cost plus equipment and labor cost reimbursement.	Fee charged for providing water service. Charge includes the meter and City's installation of meter and City's installation of service. Due to the price of certain materials being unstable and varying, the actual amount charged is to be based on the actual cost to the City of any material to be supplied.

Public Works - Sewer

Fee Name	Fee Amount	Fee Description/Code Section
Sewer Tap - Residential Building Permit	\$15.00	Fee applies when an applicant requests a sewer tap to serve a residential building. (See Sec. 22-159).
Sewer Tap - Commercial Building Permit	\$20.00	Fee applies when an applicant requests a sewer tap to serve a commercial building. (See Sec. 22-159).

Public Works - Miscellaneous Fees

Fee Name	Fee Amount	Fee Description/Code Section
Encroachment Permit	\$100.00	This fee is for review, issuance, inspection, and closing of the permit. (See Sec. 24-2).
Materials Replacement Cost	The amount for this fee is derived from the actual costs of replacing the item.	This fee applies when materials and supplies from the City's stock is utilized by a developer or other third party.

(6) Fees administered by the parks and recreation department:

Program Fees - Parks and Recreation		
Fee Name	Fee Amount	Fee Description
Martial Arts Class	\$50.00 per month	Monthly registration fee
Spring Break Camp	\$17.00/day (Member) \$22.00/day (Nixa Resident) \$27.00/day (Non-Nixa Resident)	Registration fee per day needed for camp.
Summer It-Up	\$25.00 Initial Fee for Registration (Per Family) \$96.50/week (Member) \$110.00/week (Nixa Resident) \$110.00/week (Non-Nixa Resident)	Initial Registration Fee per family for paperwork processing and camp shirt. Registration fee per week needed for camp. (prorated for weeks shorter than 5 days).
Winter Break Camp	\$17.00/day (Member) \$22.00/day (Nixa Resident) \$27.00/day (Non-Nixa Resident)	Registration fee per day needed for camp.
Afterschool Archery	\$25.00/session (Nixa Resident) \$27.00/session (Non-Nixa Resident)	Registration fee per session. (6 classes)

Adult Dance Class	\$45.00/individual \$75.00/couple	Registration Fee paid per session. (6 classes)
Aquatics Fees - Parks and Recreation		
Fee Name	Fee Amount	Fee Description
Open Swim	\$5.00 (Nixa Resident) \$6.00 (Non-Nixa Resident)	Daily General Swim Admission
Splash Time	\$3.00/person *Ages 8 and under	Daily Splash Time Admission (Mon. - Thurs. & Saturday)
Lap Swim	\$3.00/person	Daily Lap Swim Admission (Mon. - Thur. & Saturday)
Pre-Season Pool Pass	\$110.00/person; additional person within the same household \$25.00 (Member and Nixa Resident) \$125.00/person; additional person within same household \$35.00 (NonMembers and Non-Nixa Resident)	Valid through May 14th, Rates increase per person \$15.00 and additional persons \$10.00. Excluding the member rates. Season Pass Registration Rate
Punch Pass	\$45.00 (Nixa Resident) \$55.00 (Non-Nixa Resident)	Pass Registration for 10 Pool Visits.
Pool Parties	\$110.00 (90 minute rental)	Umbrella reservation fee for a party for up to 20 guests.
Jr. Lifeguard Training	\$32.00 (Member) \$37.00 (Nixa Resident) \$44.00 (Non-Nixa Resident)	Registration Fee for session. (8 classes)
Swim Team	\$60.00 (Member) \$65.00 (Nixa Resident) \$70.00 (Non-Nixa Resident)	Registration Rate per session.
Aqua Exercise	\$45.00 (Member) \$50.00 (Nixa Resident) \$60.00 (Non-Nixa Resident) *Silver Sneaker and Renew Active members free with visit check in.	Registration Fee per session.
Swim Lessons	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Nixa Resident)	Registration Fee per session. (8 classes)
Community Events - Parks and Recreation		
Fee Name	Fee Amount	Fee Description
Father Daughter Dance (PreRegistration)	\$25.00 (Member) \$30.00 (Nixa Resident) \$35.00 (Non-Resident) \$10.00 for each additional child.	Registration fee includes admission for one parent and one child.

Father Daughter Dance (Day of Registration)	\$30.00 (Member) \$35.00 (Nixa Resident) \$40.00 (Non-Resident) \$10.00 for each additional child.	Registration fee includes admission for one parent and one child.
Indoor Garage Sale	10x10 Space - \$20.00 10x15 Space - \$30.00 Table Rental - \$5.00/table	Booth Registration per space.

Sports - Parks and Recreation

Fee Name	Fee Amount	Fee Description/Code Section
Fall Basketball	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Winter Basketball	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Spring Soccer	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Fall Soccer	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Spring Volleyball	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Fall Volleyball	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Baseball/Softball/ T-Ball Session 1	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)

Baseball/Softball/ T-Ball Session 2	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Flag Football	\$42.00 (Member) \$47.00 (Nixa Resident) \$55.00 (Non-Resident) \$10.00 additional fee for late registrations.	Registration Fee per season. (6 game schedule)
Tennis Lessons	\$50.00/session	Registration Fee per session (4 classes)
Fitness - Parks and Recreation		
Fee Name	Fee Amount	Fee Description
Personal Training	One Session - \$20.00 (1/2 hour); \$35.00 (1 hour) Ten Sessions - \$180.00 (1/2 hour); \$315.00 (1 hour)	Registration Fee per session
Nutrition Coaching	One Session - \$55.00 Four Sessions - \$150.00 Eight Sessions - \$295.00	Registration Fee per session. Sessions are 1 hour
Room Rentals - Parks and Recreation		
Fee Name	Fee Amount	Fee Description
James Room	\$15.00 (Member) \$25.00 (Non-Member)	Per hour reservation fee.
Finley Room	\$15.00 (Member) \$25.00 (Non-Member)	Per hour reservation fee.
Osage Room	\$35.00 (Member) \$45.00 (Non-Member)	Per hour reservation fee.
James & Finley Room	\$30.00 (Member) \$50.00 (Non-Member)	Per hour reservation fee.
Missouri Room	\$25.00 (Member) \$35.00 (Non-Member)	Per hour reservation fee.
Mississippi Room	\$25.00 (Member) \$25.00 (Member)	Per hour reservation fee.
Missouri & Mississippi Rooms	\$50.00 (Member) \$70.00 (Non-Member)	Per hour reservation fee.
Mississippi & Osage Rooms	\$60.00 (Member) \$80.00 (Non-Member)	Per hour reservation fee.
Community wing (Osage, Mississippi, and Missouri)	\$85.00 (Member) \$115.00 (Non-Member)	Per hour reservation fee.
Community wing half day.	\$400.00 (Member) \$580.00 (Non-Member)	6 hour block reservation fee.
Community wing full day	\$700.00 (Member) \$1,060.00 (Non-Member)	Full day reservation fee.
Annual Membership Fees - Parks and Recreation		
Fee Name	Fee Amount	Fee Description
Family Membership	\$505.00 Paid in full or \$47.50 monthly	Annual or monthly EFT membership fee.
Adult Individual (18-59 years of age).	\$310.00 Paid in full or \$29.50 monthly	Annual or monthly EFT membership fee.

Senior Individual (60+ years of age).	\$200.00 paid in full or \$20.00 monthly.	Annual or monthly EFT membership fee.
Senior Couple	\$325.00 paid in full or \$30.00 monthly.	Annual or monthly EFT membership fee.
Youth Individual (17 or younger)	\$205.00 paid in full or \$20.00 monthly.	Annual or monthly EFT membership fee.
90-Day Membership	\$90.00/person paid in full only	90 consecutive day membership fee (no member discount benefits).

Non-Member Daily Admission Fees - Parks and Recreation

Fee Name	Fee Amount	Fee Description
Adult Individual	\$6.00/day or \$54.00 for 10 day punch pass.	Per day visit fee, 10 visit punch card fee.
Youth Individual	\$4.00/day or \$36.00 for 10 day punch pass.	Per day visit fee, 10 visit punch card fee.
Senior Individual	\$4.00/day or \$36.00 for 10 day punch pass.	Per day visit fee, 10 visit punch card fee.
Family	\$15.00/day or \$135.00 for 10 day punch pass.	Per day visit fee, 10 visit punch card fee.

Tot-Drop Fees -Parks and Recreation

Fee Name	Fee Amount	Fee Description
Tot-Drop	Free to Members. \$3.00/visit or \$24.00 for 10 day punch pass.	Non-member daily tot-drop fee.

Miscellaneous Fees - Parks and Recreation

Fee Name	Fee Amount	Fee Description
Membership Change Fee	\$20.00	Fee for downgrading membership outside of renewal date.
Membership Cancellation Fee	\$30.00	Membership cancelation fee for canceling membership outside of renewal period.
Non-sufficient funds fee	\$25.00	Administrative fee for all returned payments.

(c) *Purpose of fees.* Generally, the fees adopted by this section shall be imposed to, at a minimum, defray the costs to the city of providing the service, license, or approval. It is the city council's intention that the provision of the various services, licenses, or approvals shall not be a burden to the general taxpayers of the city but instead are borne by those seeking the services, licenses, or approvals.

(d) *Waiver of fees for governmental entities by resolution.* No fees, whether imposed by this Code or any other ordinance shall be waived except by resolution of the city council. The council shall only waive such fees by resolution for other governmental entities and upon a showing by said governmental entity that the public is better served by the requested waiver than by the imposition of the fee.

(Ord. No. 2331, § 1, 10-23-2023)

Editor's note—Ord. No. 2331, § 1, adopted October 23, 2023, repealed the former § 2-151, and enacted a new § 2-151 as set out herein. The former § 2-151 pertained to waiver of fees for governmental entities by resolution—authorized and derived from Ord. No. 2234, § 1, 11-22-2021.

Secs. 2-152—2-159. Reserved.

ARTICLE V. OPEN RECORDS POLICY**Sec. 2-160. Purpose.**

It is the stated intent of the city council, that the City of Nixa shall comply with the provisions of RSMo ch. 610 et seq., commonly referred to as the Missouri Sunshine Law, and the provisions of this article. This article is intended to provide the process in which open records may be requested and provided. Additionally, the council intends that this article shall function and be deemed as the city's "reasonable written policy" for purposes of RSMo 610.028. This article shall be interpreted in light of, and subject to, the provisions of RSMo ch. 610.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-161. Custodian of records designated.

(a) The city clerk is hereby designated as the "custodian of records" for the City of Nixa. Requests for copies of, or access to, city records shall be made to the custodian of records. Requests made to other persons shall not be considered to be requests made pursuant to RSMo ch. 610. Any official or employee of the city who receives a request for records is hereby directed to inform the custodian of records of the request as soon as reasonably possible. The city clerk is authorized to delegate their functions under this article.

(b) Notwithstanding section 2-161(a), the chief of police is hereby designated as the "custodian of records" for those records embraced in RSMo 610.100. Request for copies of, or access to, said records, shall be made to the chief of police. Requests made to other persons for such records shall not be considered to be requests made pursuant to RSMo ch. 610. Any official or employee of the city who receives a request for such records is hereby directed to inform the chief of police of the request as soon as reasonably possible. The chief of police is authorized to delegate their functions under this article.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-162. Records requests—How made.

(a) All requests for city records shall be in writing and on forms approved and provided by the custodian of records.

(b) Oral requests, if received by the custodian of records, shall be immediately recorded in written form to document the request.

(c) Request for records shall include sufficient information regarding the records requested such that the custodian of records can reasonably identify what records are sought by the requestor.

(d) The custodian of records is authorized to request or require any additional information which is reasonably necessary to complete any records requests.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-163. Response to records requests.

(a) The custodian of records shall respond to all requests for records within three business days of receipt of a complete request. This section shall not be construed as requiring the custodian of records to provide the requested records within three days of the request.

(b) The custodian of records shall document all responses or communications to the requestor and shall document what records were provided.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-164. Fees for records requests.

(a) Fees for providing records shall be charged as set forth in RSMo 610.026.

(b) The custodian of records is authorized to require a deposit be provided for any records request which, in the reasonable judgment of the custodian of records, will take more than one hour to research and compile. Said deposit shall be in the same amount as the estimated cost to fulfil and provide the requested records. Such deposit shall be provided before the city begins researching the request. The deposit authorized by this subsection shall be returned to the requestor, minus any fees authorized by this section.

(c) Based on the scope and complexity of the request, the city shall produce copies of records using employees of the city that result in the lowest charge for search, research, and duplication time.

(d) Before researching or producing copies of the requested records, the custodian of records shall provide an estimate of the cost to the requestor for providing the requested records.

(e) No fees shall be charged if the total amount of all fees charged for the request are less than \$10.00.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-165. Inspection of records.

To reduce the cost to both the requesting party and the city, the custodian of records may permit a physical inspection of records by the requesting party.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-166. Closed records and votes.

All records, meetings, and votes of the city which are permitted to be closed pursuant to RSMo ch. 610, or by any other federal or state law, shall be maintained as closed records. No such closed record shall be released to any person who is not a part of the city government, except that city's contractors may be provided access to such records as are reasonably necessary to provide their respective services to the city.

(Ord. No. 2310, § 2, 4-24-2023)

Sec. 2-167. Penalty for unauthorized disclosure of closed records.

Any person employed or working for the city, or any city official, whether elected or appointed, who has been entrusted with a record that is closed, or who has been a participant in a closed meeting who nonetheless knowingly discloses any closed record or information about the contents of any closed meeting to any person shall be guilty of an offense under the ordinances of the city, and upon conviction therefor, may be punished as provided in section 1-9 of this Code. Any such person who is employed or working for the city may also be subject to termination of their employment or discipline as a result of such disclosure. Members of the city council, or the mayor may be subject to censure or removal from office as a result of such disclosure.

(Ord. No. 2310, § 2, 4-24-2023)

Secs. 2-168—2-169. Reserved.**ARTICLE VI. PROCUREMENT AND CONTRACT REGULATIONS****DIVISION 1 PROCUREMENT REGULATIONS****Sec. 2-170. Definitions.**

As used in this division the following terms and phrases shall have the meaning ascribed to them unless the context indicates otherwise:

Competitive bid is a competitive procurement process in which the specifications or description of the purchase is definite and specific and where the evaluation of submitted bids and the award of a contract is primarily based on the bidder providing the lowest-priced bid and being the most responsive and qualified amongst the bidders.

Competitive procurement process means competitive bid, request for proposals, and request for qualifications.

Emergency purchases are purchases necessitated by nonrecurring emergencies posing a substantial danger to the health, safety, and welfare of the public or of a risk of substantial financial loss to the city or of a risk of the interruption of public services unless the required supplies, materials, equipment, or services are not obtained as expeditiously as possible.

Public improvements are those fixed works constructed for public use or benefit or improvements upon the property of the city which serve to further the operations of the city.

Request for proposals is a competitive procurement process in which the specifications or description of the purchase are not definite or specific and the nature of the purchase is such that subjective evaluation criteria other than cost is necessary to determine the best approach for the city's needs.

Request for qualifications is a qualification-based competitive procurement process in which firms submit their qualifications to be considered for providing a service requested by the city.

Sole-source suppliers are suppliers of supplies, materials, equipment, or services that are unique, or which are not available from more than one competitive source in the normal course of business.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-171. Purpose.

This division has been adopted to ensure that the procurement of supplies, materials, equipment, and services on behalf of the city is timely, cost-effective, and allows for the most open, competitive purchasing process practicable, while also treating all vendors equitably; to ensure that the public has confidence in the city's procurement processes; to ensure that the highest quality goods and services are secured at the lowest possible price; and to clearly define the authority for exercising purchasing functions on behalf of the city. The provisions of this division shall be interpreted consistent with the purposes articulated herein.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-172. Scope of division; rules and procedures; delegation authorized.

(a) This division delegates authority to the city administrator to contract for the purchase of supplies, materials, equipment, and services on behalf of the city. This division does not impose procedural limitations on the city council or otherwise limit the power of the city council to contract for the purchase of supplies, materials, equipment, and services.

(b) The city administrator is authorized to establish additional rules and procedures to implement the provisions of this division. Such additional rules and procedures shall be in writing and filed with the city clerk and be made available for public inspection.

(c) The city administrator is authorized to delegate the authority granted in this division to other city officials or employees provided that such delegation is made in writing and filed with the city clerk who shall maintain a copy of such delegation in their office.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-173. Authority of city administrator to contract on behalf of the city—General provisions.

(a) Subject to the requirements of this division, the city administrator is authorized to contract for the purchase of supplies, materials, equipment, and services when funds for such purpose have been appropriated by the city council and a competitive procurement process is utilized.

(b) The city administrator is authorized to execute change orders and contract amendments in connection with any contract entered into under the authority of this division, provided that the total amount of all such change orders or contract amendments shall not exceed 15 percent of the original contract price.

(c) The city administrator is authorized, when utilizing a competitive procurement process, to award a contract to a contractor that, in the judgment of the city administrator, provides the lowest cost and is the best, most responsive, and most responsible contractor. The city administrator may split the award between two or more contractors if, in the judgment of the city administrator, it is in the best interest of the city to split the award.

(d) The city administrator is authorized to accept or reject all bids, proposals, or qualifications submitted as part of a competitive procurement process and to waive any technical deficiencies in any submitted bid, proposal, or other response. Nothing in this division shall be construed as requiring the city administrator to accept the lowest priced bid, proposal, or response or to accept any bid, proposal, or response.

(e) The city administrator, when utilizing a competitive procurement process, shall keep all bids, proposals, qualifications, or responses submitted to the city closed and confidential to preserve the competitive nature of the competitive procurement process undertaken. Such bids, proposals, or responses shall be open and available for public inspection once the need to close the documents is no longer present. This subsection shall be construed subject to RSMo 610.010—610.035.

(f) The city administrator shall not enter into any contracts pursuant to the authority granted by this division which have a term exceeding five years. This subsection shall not apply to contracts for the purchase of items or services for data processing, software, or electronic databases.

(g) The city administrator may utilize an electronic solicitation system if the system is secure and allows for bids or proposals to be opened only at the time designated for opening.

(h) The purchase of supplies, materials, equipment and services shall not be split into multiple contracts or transactions to avoid the requirements of this division.

(i) The city administrator shall report to the city council on all purchases made utilizing the authority of this division which exceed \$5,000.00. Said report shall be provided to the city council at regular meetings of the council. The city administrator shall be required to provide the procurement method, the contract amount, the total number of qualified responses received, the contractor, and other information that the city administrator desires to report. The reporting term of this subsection shall cover contracts entered into in the 30 days prior to the regular city council meeting in which the report is offered.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-174. Competitive procurement process required; exceptions.

(a) All contracts for the purchase of supplies, materials, equipment, and services shall be entered into only after a competitive procurement process has been utilized.

- (b) The city administrator may enter into contracts for emergency purchases without following a competitive procurement process. The city administrator shall certify in writing that the purchase is an emergency within the meaning of this division by a memorandum that sets forth the nature of the emergency.
- (c) The city administrator may enter into contracts with sole-source suppliers without following a competitive procurement process. The city administrator shall certify in writing that each purchase from a sole source supplier under this subsection meets the requirements of this division.
- (d) The city administrator may enter into contracts for professional services without following a competitive procurement process when factors such as prior experience, skills, education, local knowledge, or unique knowledge are considerations in selecting the contractor. This subsection shall not apply to contracts for architectural, engineering, and land surveying services.
- (e) The city administrator may enter into contracts for insurance without following a competitive procurement process when said insurance has a standard premium set by the State of Missouri, or which is exempted from competitive procurement by section RSMo 537.620.
- (f) The city administrator may enter into contracts for the purchase of items or services for data processing, software, or electronic databases without following a competitive procurement process when the city administrator has determined that the item, service, or software is convenient for the continuing operations of the city or a city department.
- (g) The city administrator shall, when time and business conditions permit, and to the greatest extent possible, utilize the procurement process established in section 2-176 when a purchase falls within the above categories.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-175. Contracts of ten thousand dollars or more.

- (a) The city administrator shall not contract for the purchase of any supplies, materials, equipment, or services costing \$10,000.00 or more unless a competitive procurement process has been utilized and the provisions of this section have been followed.
- (b) Prior to advertising for sealed competitive bids, proposals, or qualifications the city administrator shall obtain an authorizing resolution from the city council for purchases totaling \$10,000.00 or more. When seeking an authorizing resolution from the city council the city administrator shall present the proposed solicitation to the council for review. The requirements of this subsection shall not apply to the purchase of supplies, materials, or equipment.
- (c) The city administrator shall advertise for sealed competitive bids, proposals, or qualifications in a manner reasonably calculated to provide notice of the purchase at least five days before the time set for the opening of bids or proposals.

(d) All bids, proposals, or qualifications must be sealed and addressed to the city and must be received at the designated location, by the designated time for receipt, and on the day specified in the solicitation issued by the city.

(e) The bids, proposals, or qualifications shall be opened by the city administrator at a location specified in the solicitation issued by the city during normal city business hours on the day specified in the solicitation, if practicable. If not practicable, then the bids or proposals shall be opened on the earliest day thereafter.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-176. Contracts of five thousand dollars or more but less than ten thousand dollars.

(a) The city administrator shall not contract for the purchase of any supplies, materials, equipment, or services costing \$5,000.00 or more but less than \$10,000.00 unless a competitive procurement process has been utilized and the provisions of this section or the procurement process of section 2-175 have been followed.

(b) The city administrator shall solicit by telephone, written notice, or other reasonable means, at least three competitive written bids, proposals, or qualifications if three independent vendors are available.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-177. Records related to procurement processes and contracts.

The city administrator shall maintain records related to and documenting the procurement processes authorized herein and contracts entered into by the city pursuant to the authority granted by this division. The records to be maintained pursuant to this section shall include the reason for the specific procurement process utilized, the basis for the award and contract pricing, as well as documentation evidencing the basis for other significant decisions that were part of the procurement process. These records shall be maintained pursuant to the State of Missouri's records retention schedules or for the duration of time required by the federal government if required due to the utilization of federal funds.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-178. Request for proposals—Authorized when.

(a) The city administrator may utilize a request for proposals procurement process for the purchase of supplies, materials, equipment, or services, subject to the requirements of this section.

(b) The city administrator may utilize a request for proposal procurement process when a combination of the following factors indicate that said process is the most advantageous procurement process for the purchase:

(1) Definite specifications for the purchase cannot be reasonably determined in advance.

- (2) Several methods of performance related to the purchase may satisfy the city's requirements.
- (3) The qualifications of firms and the quality of their service are more motivating factors than price.
- (4) The nature of the purchase is such that subjective evaluation criteria other than cost are necessary to determine the best method of performance.
 - (c) When utilizing a request for proposal procurement process, subjective criteria may be used in the evaluation of competing proposals, however the criteria in which proposals are to be evaluated and the relative value of such evaluation criteria shall be established in the invitation for proposals issued by the city.
 - (d) All proposals must be sealed and addressed to the city.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-179. Request for qualifications—Authorized when.

- (a) The city administrator may authorize a request for qualification process for consulting services and whenever the city administrator has determined that such a process is advantageous to the city.
- (b) The most qualified firm shall be selected based on their qualifications alone. The fee for services may be negotiated but it shall not be the sole determining factor in the selection of the most qualified firm.
- (c) If terms cannot be negotiated between the city and the most qualified firm, the city administrator may then proceed to negotiate with the next qualified firm and so on, until a final contract is negotiated.
- (d) This method shall be utilized when contracting for professional architectural, engineering, and land surveying services and shall comply with RSMo 8.285 and 8.291, and other applicable provisions of state law.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-180. Cooperative purchasing.

The city administrator is authorized to participate in cooperative purchasing programs with the United States or any agency of the United States, with the State of Missouri or any agency, municipality, or political subdivision of the State of Missouri, with other states or any agency, municipality or political subdivision of any of the state, or with any association of municipalities or political subdivisions, provided that the cooperative purchasing program of the other entity or agency followed is substantially similar to a competitive procurement process. Notwithstanding the foregoing, if a cooperative purchase totals \$10,000.00 or more, such contract must be submitted to the city council for approval.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-181. Sale of surplus material.

(a) A department head having charge of any surplus, obsolete, or unused supplies, materials, or equipment may request that the city administrator dispose of the property. The city administrator is authorized to sell the property in any form of open market competition to the highest bidder. The city administrator may set a minimum sale price and reject any bid that, in the city administrator's judgment, is not a fair sale price.

(b) The city administrator is authorized to sell or dispose of any surplus, obsolete or unused supplies, materials, or equipment to any governmental entity without open market competition.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-182. Debarment.

(a) The city administrator is authorized to debar a person, firm, business, or organization from consideration for award of contracts issued pursuant to this division for any of the following reasons:

- (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 - (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of integrity or honesty or negatively affects responsibility as a city contractor or vendor.
 - (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
 - (4) Deliberate failure without good cause to perform in accordance with contract specifications or within the time limit provided in the contract.
 - (5) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor or vendor shall not be considered as a basis for debarment.
 - (6) The person is in arrears on any debt owed to the city or has a history of being in arrears on debts owed to the city.
 - (7) Any other cause so serious and compelling as to affect responsibility as a city contractor or vendor, including debarment by another governmental entity for any reason.
- (b) A person debarred pursuant to this section shall be ineligible to bid or submit proposals for a city contract while debarred. The debarred person may request reinstatement with the city administrator and the city administrator may lift the debarment status

upon a showing that the debarred person is not a risk regarding their ability to faithfully and adequately perform under a city contract. Such determinations may be appealed in the same manner as set forth herein.

(c) The city administrator shall initiate a debarment by serving written notice of the debarment to the person the city administrator intends to debar. The notice shall set forth the specific grounds for the debarment. The notice shall be served by regular or certified mail or by hand delivering a copy of the notice to the person subject to the debarment or the person's agent or employee. The debarment shall take effect ten days from the service of the notice unless an appeal is taken. If an appeal is taken, the debarment shall take effect unless a final order overturning the debarment is entered by the hearing officer.

(d) Within ten days after service of a written notice of debarment, the person affected by the notice may file a written request with the city clerk for a hearing.

(e) The city clerk shall inform the hearing officer of the notice for a hearing and shall set the matter for a hearing as soon as practicable. At least ten days notice of the hearing date shall be given to the affected person and the city administrator.

(f) At the hearing, each party shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, and impeach any witness. Oral evidence shall be taken on oath or affirmation. All evidence shall be suitably recorded and preserved. The technical rules of evidence shall not apply, but the hearing officer may exclude evidence that is irrelevant or repetitious. Each party shall be entitled to present oral arguments or written briefs at or after the hearing.

(g) Within ten working days after the hearing is concluded, the hearing officer shall make written findings of fact and conclusions of law and issue a final order. Findings of fact shall be based upon competent evidence. The final order shall be delivered or mailed to the city administrator and the affected person.

(h) An appeal from the hearing officer's order shall be to the circuit court pursuant to RSMo chapter 536.

(i) Nothing in this section shall limit the authority of the city administrator to accept a bid or proposal which in the judgment of the city administrator is the lowest and best, or to reject any and all bids or proposals or to reject a bid or proposal on grounds which could have been used to debar the person, firm, or business.

(j) The city administrator is authorized to appoint a hearing officer for the purposes of this section.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-183. Public improvement contracting process.

(a) The city administrator is authorized to contract for the construction or improvement of public improvements in accordance with the procedures established in this section.

- (b) The authority granted to the city administrator herein shall only apply to those public improvements included in the city's most recently adopted capital improvement program and for which appropriated funds for such public improvement have been provided by city council.
- (c) The city administrator is authorized to contract for the construction or improvement of public improvements utilizing a competitive procurement process authorized in this division. The provisions of sections 2-175 and 2-176 shall apply to the authority delegated by this section.
- (d) The city administrator is authorized to accept the public improvement on behalf of the city when the improvement has been completed and is in substantial conformance with the plans and specifications for the improvement.

(Ord. No. 2318, § 2, 7-10-2023)

Secs. 2-184—2-189. Reserved.

DIVISION 2 GENERAL CONTRACT PROVISIONS

Sec. 2-190. General contracting authority of the city administrator.

In addition to any other authority that may be granted to the city administrator by the city council or by specific ordinance, including division 1 of this article, the city administrator is authorized to enter into contracts on behalf of the city in an amount not exceeding \$5,000.00, provided that such contract is within the scope of an appropriation in the currently adopted city budget, if applicable. Any contract entered into under the authority of this section shall not have a term in excess of five years.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-191. Authority to apply for certain grants by the city administrator.

- (a) The city administrator is authorized to apply for and accept grant funding on behalf of the city provided that no matching funding or other expenditure is required of the city in an amount greater than \$10,000.00 as part of the grant award.
- (b) The city administrator is authorized to apply for and accept grant funding on behalf of the city provided that no matching funding or other expenditure is required of the city and the notice of application and deadline for submission of said grant application is no longer than 30 days apart.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-192. City attorney shall approve all contracts as to form.

The city attorney, before the execution of any contract by the appropriate city official, shall approve the contract as to form. No contract shall be valid and binding on the city unless the city attorney's approval as to form has been obtained. The city attorney is authorized to promulgate rules, regulations, and procedures to implement the provisions of this section.

(Ord. No. 2318, § 2, 7-10-2023)

Sec. 2-193. Finance director certification.

No contract or order purporting to impose any financial obligation on the city shall be executed, nor shall the same be binding and valid upon the city, unless the director of finance shall first certify in writing that such contract or order is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor. The director of finance is authorized to promulgate rules, regulations, and procedures to implement the provisions of this section. Such rules, regulations, and procedures may include the establishment of certain classes or categories of purchases which may be made by designated city personnel and officials without obtaining the certification required by this section prior to the purchase. However, city personnel and officials shall be personally liable and subject to disciplinary action as set forth in the city's personnel code for any purchases made which are not within the scope of the appropriation to which it is to be charged or where there is no unencumbered balance to the credit of such appropriation sufficient to pay therefor.

(Ord. No. 2318, § 2, 7-10-2023)

Chapter 3

RESERVED

Chapter 4

ALCOHOLIC BEVERAGES*

Article I. In General

- Sec. 4-1. Definitions.
- Sec. 4-2. License required—Classes of licenses.
- Sec. 4-3. License regulations.
- Sec. 4-4. License fees.
- Sec. 4-5. Application for license and renewal.
- Sec. 4-6. Minors.
- Sec. 4-7. Miscellaneous offenses.
- Sec. 4-8. Administration of law—License suspension and revocation.
- Sec. 4-9. Hearing upon suspension or revocation of licenses.
- Sec. 4-10. Wine sampling and tasting.
- Sec. 4-11. Penalties.
- Sec. 4-12. Application of Missouri state statutes.

***Editor's note**—Ord. No. 2301, § 1, adopted March 8, 2023, repealed the former Ch. 4. in entirety, and enacted a new Ch. 4 as set out herein. The former Ch. 4 pertained to similar subject matter and derived from Prior Code, §§ 3-1—3-4, 3-6—3-12, 3-26—3-32, 3-46—3-51; Ord. No. 1258, 7-2003; Ord. No. 1340, 3-2005; Ord. No. 1920, 12-19-2016; Ord. No. 2034, § I, 2-25-2019.

State law references—Liquor Control Law, RSMo ch. 311; local authority relative to liquor, RSMo 311.220.

ARTICLE I. IN GENERAL**Sec. 4-1. Definitions.**

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

Business means every person, sole proprietorship, corporation, partnership or other types of business enterprises, contractor, subcontractor, manufacturer, merchant or wholesaler, excluding charitable and civic groups, engaged in any business, occupation, pursuit, profession or trade or in keeping or maintaining an institution, establishment, article, utility or commodity.

Common eating and drinking areas means an area or areas within a building or group of buildings designated for the eating of food and drinking of liquor sold at retail by establishments which do not provide areas within their premises for the consumption of food and liquor; where the costs of maintaining such area or areas are shared by the payment of common area maintenance charges, as provided in the respective leases permitting the use of such areas, or otherwise; and where the annual gross income from the sale of prepared meals or food consumed in such common eating and drinking area is, or is projected to be, at least \$275,000.00.

Intoxicating liquor means alcohol for beverage purposes, including 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.

Light wines mean an intoxicating liquor consisting of wine containing not in excess of 14 percent of alcohol by weight made exclusively from grapes, berries, and other fruits and vegetables.

Liquor manufacturer means a business engaged in the production of intoxicating liquor as defined in this chapter.

Malt liquor means an intoxicating liquor containing alcohol in excess of 3.2 percent by weight and not in excess of five percent by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water.

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

Original package means any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit and consisting of one or more bottles or other containers of

intoxicating liquor, where the package and/or container(s) describes the contents thereof as intoxicating liquor. "Original package" shall also be construed and held to refer to any package containing three or more standard bottles of beer.

Person means an individual, association, firm, joint stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any state or federal court.

Resort means any establishment having at least 30 rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least 60 percent of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than \$75,000.00 per year with at least \$50,000.00 of such gross receipts from non-alcoholic sales, or means a seasonal resort restaurant with food sales as determined in RSMo 311.095(2). Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross food receipts requirements of this definition, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

Restaurant bar means any establishment having a restaurant or similar facility on the premises at least 50 percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least \$200,000.00 from the sale of prepared meals or food consumed on such premises.

Sale by the drink means the sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than 50 milliliters shall be deemed "sale by the drink" and may be made only by a holder of a retail liquor dealer's license and when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

Wine means a vinous liquor produced by fermentation of juices of grapes, berries or other fruits or a preparation of certain vegetables by fermentation and containing alcohol not in excess of 22 percent by volume.

Wine or brandy manufacturer means a business whose activity is the production of wine or brandy.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-2. License required—Classes of licenses.

(a) No person shall manufacture, brew, sell or offer for sale intoxicating liquor in the city without a currently valid liquor license issued by the city and the state. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein. No license shall be required if the manufacture is for personal use as allowed by RSMo 311.055.

(b) *General licenses.* Any person possessing the qualifications and meeting the requirements of this chapter may apply for the following licenses to sell or manufacture intoxicating liquor:

- (1) Package liquor—Malt liquor only: sales of malt liquor at retail in the original package not for consumption on the premises where sold.
- (2) Package liquor—All kinds: sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in subsection (b)(1).
- (3) Liquor by the drink—Malt liquor/light wine only: sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in subsection (b)(1) of this section.
- (4) Liquor by the drink—All kinds: sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in subsection (b)(2) of this section.
- (5) Common eating and drinking areas: sales of intoxicating liquor of all kinds by the drink not for consumption on the premises where sold but for consumption in a common eating or drinking area.
- (6) Liquor by the drink—Resort: sales of liquor of all kinds by the drink at retail for consumption on the premises of any resort or qualified restaurant.
- (7) Wine or brandy manufacturer: a producer of wine or brandy through a manufacturing process.
- (8) Microbrewery license: a producer of beer, with an annual production of 10,000 barrels or less.

(c) *Sunday sales.* Any person who is licensed under the provisions of this chapter or who otherwise possesses the qualifications and meets the requirements of this chapter may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 6:00 A.M. on Sunday and 1:30 A.M. on Monday:

- (1) Package liquor—All kinds: sales of liquor of all kinds in the original package at retail, not for consumption on the premises where sold.
- (2) Liquor by the drink—Restaurant bar: sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.
- (3) Liquor by the drink—Common eating and drinking area: sales of liquor of all kinds by the drink at retail not for consumption on the premises where sold but for consumption in a common eating or drinking area.
- (4) Liquor by the drink—All kinds: sales of liquor of all kinds by the drink at retail for consumption on the premises where sold.

(d) *Permits.*

- (1) *Temporary permit for sale by drink.* Any person who possesses the qualifications and complies with the provisions of section 4-3(c) below may apply for a special temporary permit to sell intoxicating liquor for consumption on premises where sold.
- (2) *Tasting permit.* Any person who is licensed to sell intoxicating liquor in the original package at retail under subsections (b)(3) and (c) of this section above may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.
- (3) *Liquor catering permit.* Any person wishing to exercise the sale of liquor by the drink for an event held somewhere other than the location described within the applicant's current and valid liquor license may apply for a liquor catering permit. Said permit may be issued for no more than a period of 72 consecutive hours. An application for a liquor catering permit must meet the following requirements:
 - a. Materials required for liquor catering permit must be presented at the time of application:
 1. Signed letter from the entity requesting the permit.
 2. Copy of related state liquor license.
 3. Signed letter of permission from the owner of the location or premise where the service of alcohol will be conducted.
 4. Statement of intended dates for permit.
- (4) A current and valid license for the sale of liquor by the drink must be held by the applicant of a permit for all appropriate jurisdictions, city and state.
- (5) A current and valid license for the sale of liquor by the drink must be held by the applicant of a permit for all appropriate categories of intended sale.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-3. License regulations.

- (a) *Package sales, limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, 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 their 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 chapter or law.

(b) *Newly-opened restaurant bars.* Any new restaurant bar having been in operation for less than 90 days and having received temporary license in accordance with the state rules and regulations may be issued a temporary license, for a period not to exceed 90 days, to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 6:00 A.M. and 1:30 A.M. on weekdays and between the hours of 6:00 A.M. on Saturdays until 1:30 A.M. on Sundays. No intoxicating liquor may be sold on Sundays except in accordance with the provisions of section 4-2(c).

(c) *Temporary permit for sale by drink—Certain organizations.*

- (1) The city administrator or their designee may issue a permit for the sale of intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such organization.
- (2) If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 6:00 A.M.
- (3) At the same time that an applicant applies for a permit under the provisions of this subsection, the applicant shall notify the director of revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.
- (4) 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 or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

(d) *Operating hours, days.*

- (1) No licensee or any employee of such licensee shall sell, give away or otherwise dispose of, or allow the same to be done, on or about the premises, any intoxicating liquor in any quantity except as outlined in RSMo chapter 311.
- (2) 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 their license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this chapter to the contrary.

(e) *General license regulations.*

- (1) Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.

- (2) A separate license shall be required for each place of business. Every license issued under the provisions of this chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.
- (3) No license issued under this chapter shall be transferable or assignable except as herein provided. 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 chapter, may make application and the city administrator or their designee may 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. Whenever one or more members of a partnership withdraws from the partnership, the city administrator or their designee, upon being requested, shall permit the remaining partner or partners originally licensed, to continue to operate for the remainder of the period for which the license fee has been paid, without obtaining a new license.
- (4) In the event any licensee desires to change the location of their place of business in the city, it shall be necessary for them to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the city administrator or their designee. Any change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this section.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-4. License fees.

(a) The classes of licenses identified in section 4-2 of this chapter shall be issued upon compliance with the provisions of this chapter and payment of the applicable license fees provided for in section 2-151 this Code.

(b) *Duration—Proration and refund of fees.* All licenses issued under the provisions of this chapter shall expire on December 31 following the issuance thereof. For a partial year license, the fee shall be prorated quarterly. No license fee shall be returned to the holder upon sale, transfer or dissolution of the business of which the license was issued.

(c) *Revocation or forfeit of license—Fee not returned.* In case of revocation or forfeiture of any license granted and issued under the provisions of this chapter for cause or otherwise, the city shall in no event return any part of the fee paid for such license.

(Ord. No. 2301, § 1, 3-8-2023; Ord. No. 2331, § 3, 10-23-2023)

Sec. 4-5. Application for license and renewal.

(a) *Filing of an application.* Each application for an original or renewal license shall be filed with the city administrator or their designee on a form to be provided by the city, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the city and a copy of the related state liquor license or a copy of the application for the related state liquor license.

(b) *Qualifications.* Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business, and if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the city; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The city administrator or their designee may request such additional information as deemed necessary or appropriate in determining whether or not an application should be granted or denied.

(c) *Review of Application.* Upon the submission of an application to the city, the city administrator or their designee shall review the application and all documents filed therewith and approve or deny the application in accordance with the following:

- (1) License applications shall be reviewed with respect to their proximity to particular established uses at the time of application to ensure that a separation of at least 100 feet exists between any business licensed to sell intoxicating liquor and any previously established school, church, or building regularly used as a place of worship.
 - a. Proximity shall be determined through the following methods:
 1. When both uses occupy separate land parcels the measurement shall start with the nearest entrance of the establishment intending to provide intoxicating liquor and extend to the nearest property line of the established use in question through the most direct possible route.
 2. When both uses occupy the same premise the measurement will be taken from the nearest entrance of each use.
 3. In circumstances where neither of the above methods apply the determination of proximity shall be made by the city administrator or their designee.
 - b. If a license applicant obtains the consent, in writing, of the board of directors of the school, or the consent, in writing, of the majority of the managing board of

the church or place of worship then the requirements of subsection (1) of this section are waived and shall not be considered grounds for the denial of the application.

- c. If the subject location of an application had previously been issued a license which was valid within one year immediately preceding the application for a new license, then the requirements of subsection (1) of this section are waived and shall not be considered grounds for denial of the application.
- (2) The city administrator or their designee shall approve the application and issue a license if after said application is reviewed it is found that:
 - a. No license theretofore issued to such applicant to sell intoxicating liquors has been revoked within two years of the date of the application;
 - b. The applicant has not been convicted since the ratification of the 21st Amendment to the Constitution of the United States of the violation of any law applicable to the sale of intoxicating liquor, or that such applicant has not employed in his/her business any person whose license has been revoked or who has been convicted of violating the provisions of such law since the date aforesaid;

- c. The applicant plans and proposes to conduct a retail liquor business in compliance with the laws of the state, the ordinances of the city and the provisions of this chapter;
 - d. The application complies with all other requirements of this Code.
- (3) Upon approval of any application for a license the city administrator or their designee shall grant the applicant a license for a term to expire on December 31 of the current calendar year, unless such license be revoked or suspended before the expiration of such term.
- (4) Applications for renewal of licenses must be filed on or before December 31 of each calendar year. The city administrator or their designee shall review such renewal applications in accordance with the provisions of this chapter and all other ordinances of the city which may affect any such renewal application. Upon being satisfied that the renewal application is proper and in order and upon payment of the appropriate license fee, the city administrator or their designee shall renew the license.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-6. Minors.

- (a) *Persons eighteen years of age or older may sell or handle liquor, when.*
- (1) Except as otherwise provided in this section, no person under the age of 21 years shall sell or assist in the sale or dispensing of intoxicating liquor.
- (2) In any place of business licensed in accordance with this chapter, persons at least 18 years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of 21 years. Any licensee who employs any person under the age of 21 years, as authorized by this subsection, shall, when at least 50 percent of the licensee's gross sales does not consist of non-alcoholic sales, have an employee 21 years of age or older on the licensed premises during all hours of operation.
- (3) Persons 18 years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least 50 percent of all sales in those places consists of food; provided that nothing in this section shall authorize persons under 21 years of age to mix or serve across the bar intoxicating beverages.
- (b) *Sales to minor—Exceptions.*
- (1) No licensee, their employee, or any other person shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of 21 years, except that this section shall not apply to the parent or guardian of the minor nor 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 such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.

- (2) Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of 21 to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of 21 from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of 21 to drink or possess intoxicating liquor is his/her parent or guardian, is guilty of an ordinance violation.
- (3) It shall be a defense to prosecution under this subsection if:
 - a. The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;
 - b. The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was 21 or more years of age; and
 - c. To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, state non-driver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 years of age and of the legal age for consumption of intoxicating liquor.

(c) Misrepresentation of age by minor to obtain liquor—Use of altered driver's license, passport or I.D. cards, penalties.

- (1) No person under the age of 21 years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that they have attained the age of 21 years, except in cases authorized by law.
- (2) In addition to subsection (4)(a) of this section, no person under the age of 21 years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in section RSMo 302.181, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.

(d) Minors in possession of intoxicating liquor.

- (1) Any person under the age of 21 years who purchases or attempts to purchase, or has in their possession, any intoxicating liquor or who is visibly intoxicated as defined in RSMo 577.001, or has a detectable blood alcohol content of more than 0.02 percent or more by weight of alcohol in such person's blood is in violation of this section.
- (2) The provisions of this subsection shall not apply to a student who:
 - a. Is 18 years of age or older;

- b. Is enrolled in an accredited college or university and is a student in a culinary course;
 - c. Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
 - d. Tastes a beverage under subsection (5)(b)(3) of this section only for instructional purposes during classes that are part of the curriculum of the accredited college or university.
 - e. The beverage must at all times remain in the possession and control of any authorized instructor of the college or university, who must be 21 years of age or older. Nothing in this subsection, may be construed to allow a student under the age of 21 to receive any beer, ale, porter, wine or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.
- (e) For purposes of prosecution under this section, 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 no 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.
(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-7. Miscellaneous offenses.

(a) *Off-premises consumption.* No licensee shall sell intoxicating liquor at retail in the original package, not to be consumed on the premises where sold, in any original package containing less than 50 milliliters.

(b) *Drinking in public places prohibited.*

- (1) For purposes of this section, the term "public place" shall mean any public street, highway, sidewalk, or other public way of the city, or any city parking lot or property owned or under control of the city.
- (2) No person shall drink or ingest any intoxicating liquor in or on any public place, except this shall not apply to a city event in a public place, or when a special event permit has been issued by the city to hold a special event in a public place, or when a temporary permit for the sale by the drink has been issued pursuant to section 4-3(c) and the organization has designated a specific area on the parking lot for the sale and consumption of alcohol.
- (3) No person shall possess or have under their control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor while in or upon any public place, except this shall not apply to a city event in a public place, or when

a special event permit has been issued by the city to hold a special event in a public place, or when a temporary permit for the sale by the drink has been issued pursuant to section 4-3(c) and the organization has designated a specific area on the parking lot for the sale and consumption of alcohol.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-8. Administration of law—license suspension and revocation.

(a) *Suspension or revocation of license—When—Manner.* A hearing officer, appointed by the city administrator, may suspend or revoke the license of any person for cause shown. In such cases the city administrator or their designee shall schedule a hearing before the hearing officer not less than ten days prior to the effective date of revocation or suspension, and prior to the hearing the city administrator shall give not less than ten days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail or by posting on the licensed premises. The hearing shall be conducted in accordance with section 4-9 of this chapter.

(b) *Grounds for suspension or revocation.* A license may be suspended or revoked for any of the following reasons:

- (1) Violating any of the provisions of either this chapter, RSMo Chapters 311 or 312, or any ordinance of the city;
- (2) Failing to obtain or keep a license from the state supervisor of liquor control;
- (3) Making a false affidavit in an application for a license under this chapter;
- (4) Failing to keep an orderly place or house;
- (5) Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;
- (6) Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the state; or
- (7) Selling, giving, or otherwise supplying intoxicating liquor to:
 - a. Any person under the age of 21 years,
 - b. Any person during unauthorized hours on the licensed premises,
 - c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or
 - d. Any person on the licensed premises during a term of suspension as ordered by the council.

(c) *Automatic revocation/suspension.* A license shall be revoked automatically if the licensee's state liquor license is revoked or if the licensee is convicted in any court of any violation of RSMo Chapter 311 or RSMo Chapter 312, or of any felony violation of RSMo Chapter 195, in the course of business. A license shall be suspended automatically if the licensee's state liquor license is suspended, and the suspension shall be for a term not less than that imposed by the state.

(d) *Effect of suspension.* No person whose license shall have been suspended by order of the hearing officer shall sell or give away any intoxicating liquor during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the hearing officer's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-9. Hearing upon suspension or revocation of licenses.

(a) *Testimony—Evidence.* Hearings before the Hearing Officer shall be in the nature of a contested case. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within 200 feet of the establishment shall have the right to produce witnesses and testimony.

(b) *Witnesses—How summoned.* Subpoenas may be issued by the hearing officer for any person whose testimony is desired at any hearing. Such subpoenas may be served and returns thereon made by any agent and in the same manner as provided by law for the service of subpoenas in civil suits in the circuit courts of this state. The hearing officer also may issue subpoenas duces tecum requiring the production of documents or other items pertaining to the subject of the inquiry.

(c) *Witnesses to be sworn.* Before any witness shall testify in any such hearing, they shall be sworn by the hearing officer to tell the truth and nothing but the truth.

(d) *Decision—Suspension or revocation.* If the evidence supports a finding that the license should be revoked or suspended pursuant to section 4-9 of this chapter, the hearing officer shall issue a written order which shall include specific findings of fact and conclusions of law setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.

(e) *Appeal.* Any applicant or licensee aggrieved by a decision of the hearing officer may appeal such decision to the circuit court pursuant to the procedure set out in RSMo Chapter 536, provided such appeal is filed within ten days of the date of the hearing officer's decision. The appeal shall not stay the effect of the hearing officer's decision.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-10. Wine sampling and tasting.

(a) A person or entity holding a license granted by the city for the sale of liquor in the original package not to be opened or consumed on the premises may provide a sampling or tasting of wine, malt beverages, and distilled spirits to customers upon issuance of a permit by the state supervisor of liquor control and obtaining a city permit for sampling subject to the following:

- (1) Such sampling or tasting shall be limited to a serving of one-ounce samples and not more than a total of two ounces to anyone person from anyone bottle of product. No person shall be allowed combined samples in excess of that allowed under the division of alcohol and tobacco control tasting guidelines for food demonstrations at any given sampling session whether or not a food demonstration is occurring.
- (2) Consumption of the sample must take place within the licensed premise where the sample is served.
- (3) No sampling or tasting shall be permitted for any customer under the age of 21 years.
- (4) Alcoholic beverage samples shall not be consumed during hours or days when the licensed premise is prohibited by law from being open to the public.
- (5) Except as specifically permitted by this section, all other requirements of this chapter shall remain in full force and effect.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-11. Penalties.

Any person violating any of the provisions of this chapter shall upon conviction be punished as set forth in section 1-9 of this Code.

(Ord. No. 2301, § 1, 3-8-2023)

Sec. 4-12. Application of Missouri state statutes.

This chapter shall be interpreted and enforced with reference to the definitions and provisions found in RSMo Chapter 311.

(Ord. No. 2301, § 1, 3-8-2023)

Chapter 5

RESERVED

Chapter 6

ANIMALS*

Article I. In General

- Sec. 6-1. Fines.
- Sec. 6-2. Interference with an animal control officer or authorized person in possession of an animal; unauthorized access to the pound or equipment.
- Sec. 6-3. Responsibility of parent or guardian.
- Sec. 6-4. Animals at large.
- Sec. 6-5. Vaccination of animals.
- Sec. 6-6. Animal defecation.
- Sec. 6-7. Nuisance animals.
- Sec. 6-8. Unclean animal enclosures.
- Sec. 6-9. Disposal of dead animals.
- Sec. 6-10. Knowingly releasing an animal.
- Sec. 6-11. Animal abuse.
- Sec. 6-12. Animal neglect and abandonment.
- Sec. 6-13. Prohibited animals.
- Sec. 6-14. Animals transported in or by a motor vehicle.
- Sec. 6-15. Vicious/dangerous or offensive dogs and other animals.
- Secs. 6-16—6-33. Reserved.

Article II. Dogs

- Sec. 6-34. Fee for impounded animals.
- Sec. 6-35. Biting dogs; observation period; same regulations for miniature pigs.
- Sec. 6-36. Impounding of animals.
- Sec. 6-37. Certain animal licenses.
- Sec. 6-38. Affixing dog tags.
- Sec. 6-39. Limitation on number of cats or dogs kept as pets; miniature pig to be included in limitation.
- Sec. 6-40. Loose dogs and miniature pigs to be impounded.
- Sec. 6-41. Dog litters.
- Secs. 6-42—6-59. Reserved.

Article III. Possession, Care, Treatment and Disposal of Exotic Animals

- Sec. 6-60. Intent.
- Sec. 6-61. Definitions.
- Sec. 6-62. Prohibited animals.
- Sec. 6-63. Exemptions.
- Sec. 6-64. Confiscation and disposition of exotic animals.
- Sec. 6-65. Penalties.

***State law references**—Disposal of dead animals, RSMo ch. 269; animals restrained from running at large, RSMo 270.010 et seq.; strays, RSMo ch. 271; fences and enclosures generally, RSMo ch. 272; dogs and cats, RSMo ch. 273; animal cruelty, dangerous animals, etc., RSMo 578.012 et seq.

NIXA CITY CODE

Sec. 6-66. Effective date.

Sec. 6-67. Grandfather clause.

ARTICLE I. IN GENERAL**Sec. 6-1. Fines.**

(a) Any person found in violation of sections 6-3, 6-4, 6-6—6-13, 6-37—6-39, and 6-41 shall be subject to a fine of no less than \$25.00.

(b) Any person found in violation of section 6-2 shall be subject to a fine of no less than \$100.00.

(c) Any person found in violation of section 6-15 shall be subject to a fine of no less than \$100.00; except that repeat violations may face an accelerated fine of no more than \$500.00 and/or 90 days in jail. The fine may be imposed in addition to the sanctions outlined under section 6-15(h).

(Prior Code, § 4-22; Ord. No. 1560, 11-2008; Ord. No. 1731, 3-19-2012)

Sec. 6-2. Interference with an animal control officer or authorized person in possession of an animal; unauthorized access to the pound or equipment.

(a) It shall be unlawful for any person to interfere with the official duties of an animal control officer or his designee as long as the duties are in compliance with the ordinances for the city or any other state or federal law.

(b) It shall be unlawful for any person to break open the pound or any transporting device in an attempt to remove, release or retrieve any animal under the control of an animal control officer or other authorized person.

(Prior Code, § 4-15; Ord. No. 1560, 11-2008)

Sec. 6-3. Responsibility of parent or guardian.

The parent or guardian of a minor child is responsible for the adequate care of any animal owned by, or in the control of, or harbored by the minor child. Responsibility will include any and all compliance with the sections of this chapter.

(Prior Code, § 4-5; Ord. No. 1560, 11-2008)

Sec. 6-4. Animals at large.

It shall be unlawful for any person to allow a dog, chicken, miniature pig, or other animal to run at large within the corporate limits of the city. Any dog, miniature pig, or other animal shall be deemed to be at large when it is off the property of its owner and not physically restrained by a competent person. All owners of dogs, miniature pigs, or other animals shall confine such animals to an enclosed area on their property, or confine their dog, miniature pig, or other animal to a leash, or a chain in such a manner as to at all times have full control of the animal dog, miniature pig, or pup. Any chicken shall be deemed to be at large when it

is not confined to the enclosed area of the owner's property as described in section 6-13. For purposes of this section, miniature pig shall have the same meaning as such term is used in section 6-13 of the City Code.

(Prior Code, § 4-1; Ord. No. 1560, 11-2008; Ord. No. 1974, 1-22-2018; Ord. No. 2163, § 1, 1-11-2021; Ord. No. 2238, § 1, 1-24-2022)

Sec. 6-5. Vaccination of animals.

It shall be unlawful for any person to allow any dogs, cats, and other household pets for which a rabies vaccination is available to permit such animal to be present within the corporate limits of the city without a current vaccination for rabies. All dogs, cats and other applicable household pets shall wear a vaccination tag and shall present documentation that the proper inoculation has been given by a state-licensed veterinarian, when obtaining a city animal license tag as required by section 6-37 of the City Code. Miniature pigs, as such term is defined in section 6-13 of the City Code, shall be required to have a current rabies vaccination even though a vaccine may not be specifically formulated for swine.

(Prior Code, § 4-2; Ord. No. 1560, 11-2008; Ord. No. 2163, § 2, 1-11-2021; Ord. No. 2238, § 2, 1-24-2022)

Sec. 6-6. Animal defecation.

No person owning or responsible for an animal shall permit the animal to defecate on any public property or right-of-way or upon any private property not owned or leased by the person owning or responsible for the animal. The owner or responsible party of the animal shall be responsible for the removal of any excreta. It is a specific defense to a charge of violating this section that the persons charged immediately removed the excrement and properly disposed of it in a sanitary manner.

(Prior Code, § 4-12; Ord. No. 1560, 11-2008; Ord. No. 2228, § 1, 10-25-2021)

Sec. 6-7. Nuisance animals.

It shall be unlawful for any person to keep on his premises any animal that continues to make loud barking, yapping, howling, crowing, meowing, or any other noise, or produces a foul odor creating a nuisance to the neighborhood when the keeping of said animal or animals who, by frequent or long continuing noise or odor as previously described, shall unreasonably disturb the comfort or repose of any person in the vicinity.

(Prior Code, § 4-13; Ord. No. 1560, 11-2008; Ord. No. 1622, 11-2009)

Sec. 6-8. Unclean animal enclosures.

No person shall confine or keep within the city, any animal or fowl in any unclean or filthy pen, shed or other enclosure so as to be harmful to the animal or a nuisance to the community, or emits a noxious odor which is an annoyance to any inhabitant of the neighborhood.

(Prior Code, § 4-14; Ord. No. 1560, 11-2008)

Sec. 6-9. Disposal of dead animals.

No person shall deposit, or cause to be deposited, the carcass of any dead animal in the streets, roads, alleys, woods or waters within the corporate limits for the city. The burial of any carcass upon private property shall be done in compliance with RSMo 269.020.
(Prior Code, § 4-16)

Sec. 6-10. Knowingly releasing an animal.

(a) A person commits the crime of knowingly releasing an animal if that person, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.

(b) As used in this section, the term "animal" means every living creature, domesticated or wild, but not including Homo sapiens.

(c) The provisions of this section shall not apply to a public servant acting in the course of such servant's official duties.

(d) Intentionally releasing an animal is a misdemeanor.

(Prior Code, § 4-17; Ord. No. 1560, 11-2008)

State law reference—Similar provisions, RSMo 578.029.

Sec. 6-11. Animal abuse.

(a) A person is guilty of animal abuse when a person:

(1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of RSMo 578.005 to 578.023 and 273.030;

(2) Purposely or intentionally caused injury or suffering to an animal; or

(3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

(b) For the purpose of this section, the term "animal" shall be defined as any mammal.

(Prior Code, § 4-18; Ord. No. 1560, 11-2008)

State law reference—Similar provisions, RSMo 578.012.

Sec. 6-12. Animal neglect and abandonment.

(a) A person is guilty of animal neglect when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, including but not limited to, knowingly abandoning an animal in any place without making provisions for its adequate care which results in substantial harm to the animal.

(b) The term "adequate shelter" means a protective cover for any domestic animal (considering the species) which provides adequate space to maintain the animal's health and prevents pain, suffering or a significant risk to the animal's health.

(1) The term "adequate shelter" includes, but is not limited to the following:

- a. Sufficient coverage and insulation to protect an animal from hot and cold temperatures;
- b. Sufficient protection from the elements to keep the animal dry;
- c. Sufficient shade and ventilation to prevent an animal from dehydrating; and
- d. Adequate bedding or nesting area suitable for the breed, size and medical condition of the animal.

(2) Adequate shelter is structurally sound housing, which is provided with:

- a. Adequate space;
- b. Four solid walls or an "igloo" type structure;

- c. A roof;
 - d. A dry floor that is either:
 - 1. Solid; or
 - 2. Grids; provided the animal can easily stand, walk, lie on the grids without its feet or body parts being caught or damaged. The grids and area under the grids must be designed so they can be cleaned and sanitized;
 - e. An entrance; and
 - f. Adequate space for the number of animals on the property.
- (3) Materials not suitable for shelters include, but are not limited to:
- a. Inadequately insulated containers;
 - b. Crates with exposed sharp edges;
 - c. Metal or plastic drums;
 - d. Abandoned or parked vehicles;
 - e. Porches or decks;
 - f. Lean-tos;
 - g. Cardboard;
 - h. Trampolines;
 - i. Pallets;
 - j. Any other structure that is not safe or suitable for housing or fails to provide sufficient protection against the elements.

(Prior Code, § 4-19; Ord. No. 1560, 11-2008)

State law reference—Animal neglect and abandonment, RSMo 578.009.

Sec. 6-13. Prohibited animals.

- (a) It shall be unlawful to keep or maintain any prohibited animal on any land or parcel which is not herein defined as agricultural property. Any prohibited animals kept on agricultural property must be kept in accord with the requirements set forth in subsection (c) of this section.
 - (b) *Prohibited animal* means any animal classified as livestock, fowl, poultry, swine, sheep, goats, llama, camel, ostrich, wild game, nondomestic animal, or a domesticated animal when such an animal creates a noise or odor offensive to the public.
 - (c) *Agricultural property* means any property designated or zoned by the city as agricultural, including property grandfathered as previously being agricultural or currently possessing prohibited animals on November 9, 2009. Animals kept on any agricultural property that was not previously zoned agricultural (or grandfathered) on November 9, 2009, must meet the following requirements:
- (1) The property owner must keep any animals 100 feet away from the property line of any dwelling other than the property owner's dwelling.

- (2) Property owners must keep any animals 50 feet away from the property line of any church, school or business.
- (3) A property owner must live on the property with the animals or within one mile of the property where the animals are kept.
- (4) Property owners with animals on the property must provide the state-recommended amount of pasture or space per animal.
- (5) Property owner must also comply with section 6-7 (nuisance animals).
- (6) Property owners must provide proof of property insurance, owner name, phone number, address and emergency contact information to the city animal control officer.
- (7) Property and animals must be maintained according to this Code and state statutes.
 - (d) Any property that is permitted to maintain a prohibited animal as a result of being grandfathered through the adoption of this section may only replace an animal after receiving authorization from the city council.
 - (e) Nothing in this section shall prohibit schools, day care centers, vocational educational programs, and other public or private educational programs from possessing up to 20 female chickens on any lot five acres or more in size if any such chickens are maintained for educational purposes. Nothing in this section shall prohibit the possession of up to six female chickens on any lot used for residential purposes.
 - (f) If any chickens are kept pursuant to subsection (e) of this section, the chickens shall be kept in accordance with the following:
 - (1) It shall be unlawful to engage in chicken breeding, the sale of chicken meat or byproducts, or fertilizer production. Unless otherwise prohibited by state or federal law, sale of eggs from chickens shall be permitted under this section.
 - (2) Slaughter may occur provided that it is conducted in a sanitary manner, does not generate noise that creates a nuisance, and is not visible from adjacent properties or any public area or right-of-way.
 - (3) Chickens shall be kept in a secured enclosure at all times, herein referred to as "enclosure."
 - (4) Enclosures shall be kept in a clean, dry, odor-free, neat, and sanitary condition at all times.
 - (5) Enclosures shall provide adequate ventilation and adequate sun and shade and shall be impermeable to rodents, wild birds, and predators; including dogs and cats.
 - (6) Enclosures shall be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood.
 - a. Enclosures shall be enclosed on all sides and shall have a roof and doors. Openings, windows, and vents shall be covered with sturdy wiring or other predator and bird proof material.

- b. Enclosures shall only be located in the defined rear of the property.
 - c. Enclosures shall be located in accordance with the setback requirements as provided in section 117-279 Of the Nixa City Code.
 - d. Enclosures shall be located at least 25 feet from any adjacent residential dwelling, church, school, or place of business.
- (7) All uses shall operate in accordance with the standards contained in section 6-7 of the Nixa City Code.
- (8) It shall be unlawful for any person or entity to keep chickens in violation of any provision of this subsection.
- (9) Any violation of this subsection that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under general nuisance abatement provisions of the city.
- (10) Each day that a violation of this section continues is a separate offense.
- (11) All other applicable city ordinances shall apply.
- (g) *Miniature pigs.* For purposes of this section, miniature pig shall refer to swine which are bred to be domesticated pets, which are kept as pets in a residentially zoned area of the city, and which weigh no more than 120 pounds. A miniature pig shall not be considered a prohibited animal, as such term is defined in section 6-13(b) of the city code, provided that the keeping of said miniature pig is in full compliance with the following regulations and any other applicable provisions of the city code:
- (1) No person shall own, keep, or harbor at any time more than one miniature pig per residential dwelling unit within the city.
 - (2) No person shall cause or allow a miniature pig to become pregnant.
 - (3) The owner of a miniature pig shall trim and maintained all tusks in such a manner that no tusk shall appear outside of the mouth of the miniature pig when the mouth is closed.
 - (4) Every owner of a miniature pig shall register said animal with the city once the animal reaches four months of age. Such registration shall be renewed and updated annually. Registration shall not be transferable from one miniature pig to another. Applications to register a miniature pig shall contain at least the following:
 - a. Provide the name and address of the owner of the miniature pig;
 - b. Provide the color, age, and sex of the miniature pig;
 - c. The information required by section 6-13(g)(5);
 - d. Provide additional information as may identify the miniature pig; and
 - e. The applicant shall certify that the information contained in such application is truthful and accurate.

- (5) In addition to the registration required in section 6-13(g)(4), every owner of a miniature pig shall have their miniature pig microchipped and they shall submit proof of microchipping by a licensed veterinarian as well as documentation evidencing the content of the microchip, as part of their annual license application. The microchip required by this section shall contain the following information:
- a. Name of the animal;
 - b. Name of the owner of the animal;
 - c. Physical address of the owner;
 - d. Primary and secondary telephone number of the owner;
 - e. Secondary contact, including contact information for said contact; and
 - f. Primary veterinarian for the animal.

(Prior Code, § 4-21A; Ord. No. 1622, 11-2009; Ord. No. 1974, 1-22-2018; Ord. No. 2163, § 3, 1-11-2021; Ord. No. 2203, § 1, 6-28-2021)

Sec. 6-14. Animals transported in or by a motor vehicle.

- (a) Any person shall be in violation of this section who:
 - (1) Transports an animal in or by a motor vehicle unless it is either:
 - a. Fully enclosed within the vehicle or a trailer;
 - b. Protected by a belt, halter, tether, cage, container or other means which will prevent the animal from falling, jumping, or being thrown from the motor vehicle or trailer and will protect the animal or others from harm.
 - (2) Leaves an animal in a parked vehicle when temperatures in or outside the vehicle may affect the animal's health and welfare, or if the conditions inside or outside a parked vehicle constitute an imminent threat to the animal's health or safety.
- (b) This section also permits the animal control officer or any law enforcement officer to remove an animal from a parked or abandoned vehicle in order to protect the health and safety of the animal.

(Prior Code, § 4-20; Ord. No. 1560, 11-2008)

Sec. 6-15. Vicious/dangerous or offensive dogs and other animals.

- (a) No person shall own, keep, harbor or allow being in or upon his premises any dangerous dog or other animal unless it is confined in accordance with the provisions of this section. For the purpose of this section, the terms "vicious" and "dangerous" are considered synonymous, and from this point forward the use of one term shall be applicable to the other. A dog or other animal shall be considered dangerous by virtue of:

- (1) Having inflicted a severe or fatal injury on a human being or public or private property. The term "severe injury" means any physical injury, resulting directly from an animal's bite or strike which results in death, broken bones, lacerations requiring stitches, or hospitalization.

- (2) Having killed a domestic animal, livestock, or poultry without provocation, while off of the owner's property;
 - (3) Being owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;
 - (4) Having bitten in an aggressive manner a human being, without provocation, on public or private property;
 - (5) When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds, or private property, in a menacing fashion indicating the apparent attitude of attack, regardless of whether or not a person is injured by the animal; or
 - (6) Being an animal with a known propensity, tendency, or disposition to attack when unprovoked, and in the opinion of the animal control officer or a police officer presents a threat of injury or otherwise demonstrates a threat to the safety of human beings or domestic animals.
- (b) Any dog or other animal associated with a bite inflicting a non-severe injury, or any bite inflicted in response to provocation or in the reasonable defense of the owner's property and/or the owner, may be exempt from having the dog or animal classified as a vicious/dangerous animal, but the owner may still face penalties for an offensive animal. An offensive animal shall be any dog or other animal that inflicts a non-severe injury substantially different in nature than that which is described under subsection (a) of this section or exempt under this subsection (b) of this section, and shall be determined after an investigation by the animal control officer.
- (c) Otherwise, a dog or animal may be declared vicious/dangerous if:
- (1) A written complaint (citation) is signed by the individual attacked or their legal guardian, or by the animal control officer, police officer or his designee.
 - (2) A conviction of the owner of the dangerous dog or other animal occurs in the municipal court for the city or circuit court of the county or any other city or state jurisdiction of an offense requiring the court to find that the dog or other animal is dangerous or vicious.
 - (3) When the owner of a dog or other animal moves into the city limits with an animal that was registered as a dangerous animal in another city or state.
- (d) Any dog or other animal having a dangerous dog or animal complaint initiated against such animal shall be securely impounded at an approved location by the animal control officer until determination of guilt occurs in municipal court for the city or circuit court of the county. The owner of said dog or other animal shall be responsible for all costs incurred per sections of this Code while said animal is impounded. Any animal not reclaimed (if allowed by the court) by its owner within five days after the judicial action is completed shall be disposed of pursuant to this Code.

(e) Any person charged with a violation of this section who, having been duly notified fails to appear in the municipal court for the city or circuit court of the county, shall, upon order of the court, waive their right to redeem their dog or other animal. The dog or other animal shall be disposed of pursuant to this Code.

(f) Any dog or other animal deemed dangerous under this Code shall not be sold or given away without prior notification to the animal control officer. The person buying or receiving said animal shall provide their address and/or any other pertinent information desired by the animal control officer.

(g) No dog or other animal shall be declared dangerous pursuant to any part of this section if the threat, injury or damage caused by said dog or animal was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog or animal, or was tormenting, abusing, or assaulting the dog or animal, or was committing or attempting to commit any crime. Nor shall any dog or other animal be declared dangerous if it was responding to pain or injury, or was protecting itself, its kennel or offspring. Dogs utilized as part of a K-9 police program and supervised by police personnel are exempt from these regulations during the performance of official duty.

(h) Upon the declaration of "dangerous" for any dog or other animal by any court, the following sanctions may be imposed upon the owner:

- (1) Any dog or other animal that inflicts a severe or fatal injury upon a human being may be deemed an imminent threat to the public and ordered removed from the city limits or humanely euthanized by the court.
- (2) Upon conviction of any person for violating any required portion of these sanctions, the municipal court judge may, in addition to the usual judgment, order the animal control officer to forthwith take up and humanely euthanize said animal.
- (3) Sanctions imposed by the court are to be implemented to the animal control officer's satisfaction within seven days after the court ruling, or the dog or other animal may not be reclaimed and may be disposed of pursuant to this Code.

(Prior Code, § 4-21; Ord. No. 1560, 11-2008)

Secs. 6-16—6-33. Reserved.

ARTICLE II. DOGS

Sec. 6-34. Fee for impounded animals.

Any person claiming an impounded animal at the facility shall pay a user fee prior to the return of the animal in the amount established in section 2-151 of this Code.

(Prior Code, § 4-7; Ord. No. 1560, 11-2008; Ord. No. 2163, § 4, 1-11-2021; Ord. No. 2331, § 4, 10-23-2023)

Sec. 6-35. Biting dogs; observation period; same regulations for miniature pigs.

- (a) The owners of any dog which bites any person regardless of the circumstances, and whether the dog has been vaccinated or not, shall be required to place the animal in a veterinary hospital maintained by a licensed veterinarian or a city-approved facility with daily visits from a licensed veterinarian for clinical observation for a period of at least ten days following the evening of the bite.
- (b) Any dog impounded in accordance with the provisions of this chapter for biting a person may be placed in a veterinary hospital by a representative of the city. All expenses for such placement and observation shall be borne by the owner of the dog, or the person accepting such dog if it is released in accordance with the provisions hereof. If such animal shall die for any reason while in confinement, the head of such animal shall be removed by the veterinarian and submitted to any qualified official laboratory.
- (c) If, at the end of the ten-day period, the animal is alive and has developed no symptoms suggestive of rabies, it may be released to its owner or other person in accordance with the other provisions of this chapter, upon payment of all charges authorized herein for impounding and caring for said dog, in addition to all charges for the placement and observation of said dog in the veterinary hospital. No such dog shall be released until all conditions of this chapter have been complied with, including rabies vaccination paid for by the owner or person accepting such dog, and the attachment of any identification tag to the dog.
- (d) Miniature pigs, as such term is defined in section 6-13 of the city code, shall also be subject to the regulations established in this section.

(Prior Code, § 4-11; Ord. No. 1560, 11-2008; Ord. No. 2163, § 5, 1-11-2021)

Sec. 6-36. Impounding of animals.

The animal control officer may impound any animal for up to ten days if evidence suggests that the animal was involved in a biting incident.

(Prior Code, § 4-8; Ord. No. 1560, 11-2008)

Sec. 6-37. Certain animal licenses.

- (a) There shall be a licensing fee imposed in the amount established in section 2-151 of this Code on all dogs that are not spayed or neutered and kept as pets within the city limits. This licensing fee shall be paid by the owner or owners of any dog, provided that the animal is more than 12 weeks of age.
- (b) The fee for licensing a spayed or neutered dog will be in the amount established in section 2-151 of this Code; but, in order to receive this reduced fee, the owner must present verification from a licensed veterinarian of the procedure. All owners must present evidence of vaccination to obtain an animal license.

(c) Service dogs used for handicap assistance must also be licensed; however, their fee may be waived. Proof of dog training for handicapped assistance and evidence of vaccination are required in order for fee to be waived.

(d) Miniature pigs, as such term is defined in section 6-13 of this Code, shall also be subject to the licensing requirements established in this section. However, the additional fee charged for registering a non-spayed or non-neutered miniature pig shall only be charged on miniature pigs which are more than four months in age.

(Prior Code, § 4-3; Ord. No. 1560, 11-2008; Ord. No. 1714, 12-19-2011; Ord. No. 2163, § 6, 1-11-2021; Ord. No. 2331, § 5, 10-23-2023)

Sec. 6-38. Affixing dog tags.

The owner of any dog shall ensure that all city and/or vaccination tags are properly affixed by a permanent metal fastening device to the collar of the dog in such a manner that the tag may be easily seen by anyone that comes in contact with the dog. It shall be the responsibility of the owner to ensure that the tags are constantly displayed on the dog. It shall be unlawful for any person to remove, or cause to be removed, the collar, harness, or metallic license tag or rabies vaccination tag from any licensed animal.

(Prior Code, § 4-4; Ord. No. 1560, 11-2008)

Sec. 6-39. Limitation on number of cats or dogs kept as pets; miniature pig to be included in limitation.

(a) No household located within the R-1 zoned district shall possess more than four dogs, or four cats, or a combination of either dogs or cats, provided the combination of animals shall not exceed more than four animals. For purposes of section 6-39(a), miniature pigs, as such term is defined in section 6-13 of the city code, shall be included as one of the four animals allowed herein.

(b) No household located within the R-3, R-4 or R-5 zone district shall possess more than two dogs, or two cats or a combination of either dog or cat, provided the combination of animals shall not exceed more than two animals. For purposes of section 6-39(b), miniature pigs, as such term is defined in section 6-13 of the city code, shall be included as one of the two animals allowed herein.

(c) Any household that has more than the prescribed numbers of animals on or before November 10, 2008 may continue to keep the same number of dogs or cats, provided such persons register these animals with the city in accordance with the prescribed procedures set forth herein within six months after the passage of such ordinance upon payment of all associated fees; provided, however, in no event shall such person add to or replace such animal, and that in no event shall the right to keep more than four animals within the R-1 zone districts, and two animals within the R-3, R-4 or R-5 zones districts, under the provisions in this subsection, be more than five years unless otherwise extended by the city council.

(d) The city will not issue any business license to operate a kennel within any residential area of the city.

(Prior Code, § 4-9; Ord. No. 1591, 6-2009; Ord. No. 1560, 11-2008; Ord. No. 2163, § 7, 1-11-2021)

Sec. 6-40. Loose dogs and miniature pigs to be impounded.

(a) All dogs and miniature pigs found to be running at large by the chief of police shall, by him or his agents, be taken into custody and impounded, and to remain a minimum of five days, and if not claimed at the end of five days, then at the discretion of the chief of police, said animal may be turned over to another agency or destroyed by a licensed veterinarian.

(b) All animals to be claimed by an owner shall show proof of rabies vaccination and a city license, if applicable. If said owner is not able to show proof of vaccination, the person claiming responsibility of the animal must prepay a licensed veterinarian's office and show proof of payment to the city official releasing the animal.

(c) If said owner claiming responsibility of an animal cannot show proof that the animal is registered with the city, the owner will be required to purchase a city pet license through the city before the animal is released.

(d) For purposes of this section, miniature pig shall have the same meaning as such term is defined in section 6-13 of the city code.

(Prior Code, § 4-6; Ord. No. 1560, 11-2008; Ord. No. 2163, § 8, 1-11-2021)

Sec. 6-41. Dog litters.

In the event a dog shall have puppies on any premises within the city, the puppies shall be weaned and removed from the property no later than four months from the date of birth.
(Prior Code, § 4-10; Ord. No. 1560, 11-2008)

Secs. 6-42—6-59. Reserved.

ARTICLE III. POSSESSION, CARE, TREATMENT AND DISPOSAL OF EXOTIC ANIMALS*

Sec. 6-60. Intent.

It is the intent of the City of Nixa to protect the public against health and safety risks that exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. By their very nature, exotic animals are wild and potentially dangerous and, as such, do not adjust well to a captive environment.

(Ord. No. 1819, § 1, 8-18-2014)

*Editor's note—Ord. No. 1819, §§ 1—9, 8-18-2014, did not specifically amend the Code. Therefore, such ordinance has been added as article III at the editor's discretion.

Sec. 6-61. Definitions.

- (a) *Animal control officer* means the person or persons responsible for the enforcement of animal ordinances, offenses, or investigations.
- (b) *Exotic animal* means those species of animals that are exotic to humans. Exotic animals include, but are not limited to, any or all of the following orders and families, whether bred in the wild or in captivity, and any or all hybrids. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

(1) Class Mammalia:

Order Artiodactyla (hippopotamuses, giraffes, camels, deer, not cattle or swine or sheep or goats).

Order Carnivora:

- a. Family Felidae (lions, tigers, cougars, leopards, ocelots, servals, not domestic cats).
- b. Family Canidae (wolves, coyotes, foxes, jackals, not domestic dogs).
- c. Family Ursidae (all bears).
- d. Family Mustelidae (weasels, skunks, martins, minks, not ferrets).
- e. Family Procyonidae (raccoons, coatis).
- f. Family Hyaenidae (hyenas).

- g. Family Viverridae (civets, genets, mongooses).
- h. Family Chiroptera (bats).

Order Edentatia (anteaters, armadillos, sloths).

Order Lagomorphs (rabbits not domestic breeds).

Order Marsupialia (opossums, kangaroos, wallabies, not sugar gliders).

Order Perissodactyla (rhinoceroses, tapirs, not horses or donkeys or mules).

Order Primates (lemurs, monkeys, chimpanzees, gorillas).

Order Proboscidae (elephants).

Order Rodentia (squirrels, beavers, porcupines, not guinea pigs, or rats, or mice, or gerbils, or hamsters).

(2) Class Reptilia:

Order Squamata:

- a. Family Varanidae (only water monitors and crocodile monitors).
- b. Family Iguanidae (only green iguanas and rock iguanas).
- c. Family Boidae (all species whose adult length has the potential to exceed six (6) feet in length).
- d. Family Colubridae (only boomslangs and African twig snakes).
- e. Family Elapidae (such as coral snakes, cobras, mambas, etc.) all species.
- f. Family Nectricidae (only keelback snakes).
- g. Family Viperidae (such as copperheads, cottonmouths, rattlesnakes, etc.) all species.

Order Crocodilia (such as crocodiles, alligators, caimans, gavials, etc.) all species.

(c) *Person* means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative thereof.

(d) *Possessor* means any person who owns, possesses, keeps, harbors, brings into the state, has in one's possession, acts as a custodian, or has custody or control of an exotic animal.

(e) *Wildlife sanctuary* means a non-profit organization, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced exotic animals are provided care for their lifetime or released back to their natural habitat and, with respect to any animal owned by the organization, does not:

- (1) Conduct any activity that is not inherent to the animal's nature;
- (2) Use the animal for any type of entertainment;
- (3) Sell, trade or barter the animal or the animal's body parts; or

(4) Breed the animal for any purpose.

(Ord. No. 1819, § 2, 8-18-2014; Ord. No. 1823, 9-22-2014)

Sec. 6-62. Prohibited animals.

It shall be unlawful for any person to keep, possess, display or offer for sale any wild or exotic animal within the city. For the purpose of this section, the term "exotic animals" shall be defined as listed in section 6-61(b).

(Ord. No. 1819, § 3, 8-18-2014)

Sec. 6-63. Exemptions.

The provisions of this article shall not apply to:

(a) Animal control or law enforcement agencies or officers acting under the authority of this article.

(b) Licensed veterinary hospitals or clinics.

(c) Any wildlife sanctuary as defined under this article.

(d) Any licensed or accredited research or medical institution.

(e) Any licensed or accredited educational institution.

(f) Any lawfully operated circus or rodeo.

(g) A person temporarily transporting an exotic animal through the city if the transit time is not more than forty eight (48) hours and the animal is at all times maintained within a confinement sufficient to prevent the exotic animal from escaping.

(Ord. No. 1819, § 4, 8-18-2014)

Sec. 6-64. Confiscation and disposition of exotic animals.

(a) The animal control authority may immediately confiscate any exotic animal if the animal is kept in contravention of this article. The possessor is liable for the costs of placement and care for the exotic animal from the time of confiscation until the time of return to the possessor or until the time the animal has been relocated to an approved facility, such as a wildlife sanctuary as defined under this article or an institution accredited by the American Zoo and Aquarium Association (AZA).

(b) If an exotic animal is confiscated due to the animal being kept in contravention of this article, the possessor must post a security bond or cash with the municipal court in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in caring and providing for the animal, including but not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days. The security bond or cash shall not prevent the animal control officer from disposing of the animal at the end of the thirty (30) days unless the person claiming the animal posts an additional security bond or cash with the court to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional thirty (30) days, and does so prior to the expiration of the first

thirty-day period. The amount of the security bond or cash shall be determined by the animal control officer and based on the current rate to feed, provide medical care, and house the animal.

(c) If a confiscated animal possessor cannot be located or if a confiscated animal remains unclaimed, in the discretion of the animal control officer, the animal control officer may contact an approved facility, such as a wildlife sanctuary as defined under this article or an institution accredited by the American Zoo and Aquarium Association (AZA), allow the animal to be adopted or euthanized.

(d) If the exotic animal cannot be taken up or recaptured safely, the animal control officer or law enforcement may immediately euthanize the animal.

(e) If proper and safe housing cannot be found, the animal control officer or his designee may immediately euthanize the animal.

(Ord. No. 1819, § 6, 8-18-2014)

Sec. 6-65. Penalties.

(a) Any person violating any provision of this article shall be deemed:

(1) *Guilty of a misdemeanor.* Penalties may be imposed of up to five hundred (\$500.00) dollars plus the costs of prosecution.

(2) *Responsible for a civil infraction.* Penalties may be imposed in fines up to one thousand (\$1000.00) dollars plus the costs of prosecution.

(Ord. No. 1819, § 7, 8-18-2014)

Sec. 6-66. Effective date.

(a) Except as provided by this section, this article takes effect on the date the article is signed into law.

(Ord. No. 1819, § 8, 8-18-2014)

Sec. 6-67. Grandfather clause.

(a) A person may not own, possess, keep, harbor, bring into the city, have in one's possession, act as a custodian, or have custody or control of an exotic animal unless that person holds a personal possession permit for that animal issued by an animal control officer. A person may obtain a personal possession permit for an exotic animal only if the following requirements are met:

(1) The person was in legal possession of the exotic animal prior to the effective date of this article and is the legal possessor of the exotic animal.

(2) The person applying must own and or keep the animal confined to property either zoned R-1 or AG.

(3) The person applies for and is granted a personal possession permit for each exotic animal in the person's possession.

(b) Persons who meet the requirements set forth in subsection (a) of this section shall annually obtain a personal possession permit. From and after the effective date of this article, no new exotic animal shall be brought into possession or replaced under authority of a personal possession permit.

(c) An applicant shall file an application to receive a personal possession permit with the animal control authority on forms provided by the animal control authority. The application shall include the following:

- (1) A written statement which sets forth the following information:

The name, address, telephone number, and date of birth of the applicant.

A description of each exotic animal applicant possesses, including the scientific name, name, sex, age, color, weight, and any distinguishing marks or coloration that would aid in the identification of the animal.

A photograph of the exotic animal.

The exact location where the exotic animal is to be kept.

The names, addresses, and telephone number of the person from whom the applicant obtained the exotic animal, if known.

The name, address, and phone number of the veterinarian providing veterinary care to the exotic animal and a certificate of good health from the possessor's veterinarian.

Submit his/her plan for the quick and safe recapture of the exotic animal if the exotic animal escapes.

An applicant must submit a copy of the policy for liability insurance at the time of filing of the application.

Any additional information the animal control authority may deem necessary to carry out the provisions of this article.

- (d) All of the requirements set forth in this article are and will continue to be met.

(e) The facility and the conditions in which the exotic animal will be kept are in compliance with all ordinances.

- (f) The applicant will be subject to an annual inspection.

(Ord. No. 1819, § 9, 8-18-2014)

Chapter 7

RESERVED

Chapter 8

EMERGENCY MANAGEMENT AND EMERGENCY SERVICES*

Article I. In General

Secs. 8-1—8-18. Reserved.

Article II. Emergency Management

- Sec. 8-19. Establishment of disaster planning operations.
- Sec. 8-20. Organization of disaster planning and operations.
- Sec. 8-21. Functions of organization.
- Sec. 8-22. Coordinator of organization.
- Sec. 8-23. Executive officer's powers and duties.
- Sec. 8-24. Oath of officers and employees.
- Sec. 8-25. Office space for organization.

***State law reference**—Emergency management, RSMo 44.010 et seq.

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT*

Sec. 8-19. Establishment of disaster planning operations.

There is hereby created within and for the territory of the city, a disaster planning and operations organization to be known as the "city disaster planning and operations office" which is responsible for the preparation and implementation of emergency functions required to prevent, minimize and repair injury and damage due to disaster, 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 the state disaster operations plan adopted thereunder.

(Prior Code, § 24-1)

State law reference—Local organization for disaster planning required, RSMo 44.080.

Sec. 8-20. Organization of disaster planning and operations.

This office shall consist of a coordinator and other members appointed by the mayor, to conform to the state organization and procedures for the conduct of emergency operations as outlined in the Missouri Disaster Operations Plan.

(Prior Code, § 24-2)

Sec. 8-21. Functions of organization.

The organization shall perform emergency management functions within the territorial limits of the city, and may conduct these functions outside the territorial limits as directed by the governor during the time of emergency operations as outlined in the state disaster operations plan.

(Prior Code, § 24-3)

Sec. 8-22. Coordinator of organization.

The coordinator will be appointed by the mayor and shall serve during the pleasure of the mayor.

- (1) The coordinator shall be responsible for the organization, administration and operations of local disaster planning and organization.

***State law reference**—Emergency management, RSMo 44.010 et seq.

- (2) The coordinator shall be responsible for maintaining records and accounting for the use and disposal of all items of equipment placed under the jurisdiction of the disaster planning and operations office.

(Prior Code, § 24-4)

Sec. 8-23. Executive officer's powers and duties.

The mayor of the city and the coordinator, in accordance with RSMo ch. 44, may:

- (1) Expend funds, make contracts, obtain and distribute equipment, materials, and supplies of civil defense purposes, provide for the health and safety of persons, including emergency assistance to victims of an 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, waive the provisions of statutes requiring advertisements for bids for the performance of public work or entering into contracts;
- (4) With the approval of the governor and consistent with the state disaster operations plan, enter into mutual-aid agreements with other public and private agencies within and without the state for reciprocal emergency aid;
- (5) Accept services, materials, equipment, supplies or funds granted or loaned by the federal government for disaster planning and operations purposes.

(Prior Code, § 24-5)

Sec. 8-24. Oath of officers and employees.

No person shall be employed or associated in any capacity in any organization established under this act 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 a subversive act against the United States. Each person who is appointed to serve in an organization for emergency management shall, before entering upon his 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; and 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 faithfully discharge the duties upon which I am about to enter. And I do further swear (or 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 (name of the disaster or emergency organization), 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.

(Prior Code, § 24-6)

State law reference—Required oath, RSMo 33.115.

Sec. 8-25. Office space for organization.

The mayor is authorized to designate space in any city-owned or leased building for the city disaster planning and operations office.

(Prior Code, § 24-7)

ECONOMIC DEVELOPMENT FINANCING INCENTIVE

Chapter 9

ECONOMIC DEVELOPMENT FINANCING INCENTIVE

Sec. 9-1. Economic Development Incentive Resource Guide and Fee Schedule—Adopted.

Sec. 9-1. Economic Development Incentive Resource Guide and Fee Schedule—Adopted.

Chapter 9 is hereby adopted creating formal processes for the filing for the use of economic development financing incentive(s), with all applicable petitions, agreements and application fee(s) covering all City of Nixa processing expenses. [Ord. No. 1850 hereby adopts by reference an Economic Development Incentive Resource Guide and Fee Schedule.]

(Ord. No. 1850, 4-20-2015)

Chapter 10

ENVIRONMENTAL AND NATURAL RESOURCE CONTROL*

- Sec. 10-1. Domestic wells inside city prohibited.
- Sec. 10-2. Geothermal wells.
- Sec. 10-3. Phosphorous cleaning agents.

***State law references**—Environmental control, RSMo ch. 260; water resources, RSMo 256.200 et seq.; well drillers, RSMo 256.600 et seq.

Sec. 10-1. Domestic wells inside city prohibited.

- (a) It shall be unlawful for anyone to drill a water well within the incorporated limits of the city, where city service is located within 1,000 feet of the property line of the property to be served.
- (b) If city service is or becomes available to a property owner with an existing well, then such property owner must discontinue use of the private well and connect to the city water supply.
- (c) Nondomestic wells may be drilled and maintained only by special permission of the city council. Request shall be considered by the city council only after all state department of natural resources requirements have been met and supplied for reference by the applicant and a public hearing at a regularly scheduled city council meeting has been conducted.

(Prior Code, § 18-1)

Sec. 10-2. Geothermal wells.

- (a) It shall be unlawful to drill any well for the purpose of development or appropriation of geothermal resources without first obtaining a permit by the city for such work. This requirement does not relieve any responsibility for reporting to the state department of natural resources (MODNR) as required by state regulation.
- (b) Private bore holes or wells used for geothermal resources must meet all regulations for such facilities as adopted by the MODNR, Division 23, Chapter 5—Heat Pump Construction Code, including sections 10 CSR 23-5.010 through 10 CSR 23-5.080 and all subsequent codes and regulations adopted by the department. In addition, all bore holes shall be grouted from the surface to full depth.
- (c) It shall be unlawful to drill a well for or operate any below-ground geothermal resource system that is not fully enclosed as a loop system. Open loop systems as described in 10 CSR 23-5.060 are prohibited in the city.
- (d) A copy of a valid MODNR heat pump installation contractor's permit is required (10 CSR 23-1.090(1)) and is valid for drilling and repair of closed-loop heat pump wells, construction of trenched systems and installation of loops used in heat pump systems shall be provided to the city.
- (e) System testing. Pipes for geothermal systems permitted under this section shall be tested hydrostatically at 1½ times the maximum system design pressure, but not less than 100 psi (680 kPa), for a duration of 15 minutes. All geothermal systems must be pressure checked by a licensed geothermal system contractor every five years from the date of its initial successful test. Results shall be filed with the city. If tests show that the system fails to meet these requirements, the system shall be shut down until repairs and successful tests have been completed.

(f) The system owner is responsible to file with the city water department, all copies of permits and reports provided by the state department of natural resources as discussed on 10 CSR 23-5.020.

(Prior Code, § 18-13; Ord. No. 1695, 8-2011)

Sec. 10-3. Phosphorous cleaning agents.

(a) *Definitions.*

City of Nixa means the corporate limits of the city proper as well as any city, corporation, business, school or individual connected to or using the city sanitary sewer or stormwater system.

Cleaning agent means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

Phosphorous means elemental phosphorous.

(b) *Exemptions.*

- (1) *Cleaning agent nonapplicable.* This section does not apply to a cleaning agent that is:
 - a. A detergent used in dairy, beverage, or food processing cleaning equipment;
 - b. A phosphoric acid product, including a sanitizer, brightener, acid cleaner or metal conditioner;
 - c. A detergent used in hospitals, veterinary hospitals or clinics or health care facilities or in agricultural production;
 - d. A detergent used by industry for metal cleaning or conditioning;
 - e. Manufactured, stored, or distributed for use or sale outside of the state;
 - f. Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or
 - g. Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.
- (2) *Duration and review.* The duration of these exemptions shall be for one year after the effective date of the ordinance from which this section is derived, at which time exemptions shall be reviewed.
 - a. *Restrictions.* Except as provided in subsection (b)(1) of this section, after June 1, 1994, a person shall not use, sell, manufacture, distribute or dispose within the city any cleaning agent used in a dish washing machine, whether commercial or household, that exceeds 8.7 percent phosphorus by weight.
 - b. *Seizure of products in violation.* The city administrator or any authorized deputies may seize any cleaning agent held for sale, distribution, or use in violation of this section. The seized cleaning agents are considered forfeited.

(Prior Code, §§ 17-65—17-68; Ord. No. 1656, 7-2010)

Chapter 11

RESERVED

Chapter 12

LICENSES, TAXES AND MISCELLANEOUS BUSINESS REGULATIONS

Article I. In General

- Sec. 12-1. Pertaining to delinquent taxes.
Secs. 12-2—12-20. Reserved.

Article II. Business Licenses

- Sec. 12-21. Business licenses required.
Sec. 12-22. Nonapplicability of article to agricultural or horticultural products, etc.
Sec. 12-23. Separate license for each place of business.
Sec. 12-24. Duration of licenses; proration of license fees, etc.
Sec. 12-25. Display of licenses.
Sec. 12-26. Engaging in more than one occupation at the same place of business.
Sec. 12-27. Record of licenses issued.
Sec. 12-28. Itinerant merchant.
Sec. 12-29. Collection and accounting for taxes collected under article.
Sec. 12-30. Sales tax payment required.
Sec. 12-31. Effect of conviction or finding of guilt, fault or liability of proscribed activity.
Sec. 12-32. Revocation or denial of license.
Sec. 12-33. Hearing.
Sec. 12-34. Decisions to be in writing: appeals.
Secs. 12-35—12-56. Reserved.

Article III. Secondhand Goods

- Sec. 12-57. Definitions.
Sec. 12-58. Participant businesses defined.
Sec. 12-59. Information required for retention.
Sec. 12-60. On-line reporting action required.
Sec. 12-61. Holding period for precious gems and metals received by dealers.
Sec. 12-62. Failure to comply; permit suspension and/or fine for repeat violations.
Secs. 12-63—12-81. Reserved.

Article IV. Garage Sales

- Sec. 12-82. Definitions of section 101-2 to apply.
Sec. 12-83. Written notice of sale required.
Sec. 12-84. Limit on number of sales.
Sec. 12-85. City-wide garage sale—Authorized.
Secs. 12-86—12-100. Reserved.

Article V. Reserved

- Secs. 12-101—12-125. Reserved.

ARTICLE I. IN GENERAL

Sec. 12-1. Pertaining to delinquent taxes.

All taxes due the city shall be due and payable on receipt each year and delinquent on the first day of January next following. An interest rate of two percent per month shall be added beginning on the first day of January and two percent added each month thereafter to a maximum of 18 percent per year. A penalty charge of seven percent will be added to each delinquent bill.

(Prior Code, § 21-5; Ord. No. 1346, 4-2005)

Secs. 12-2—12-20. Reserved.

ARTICLE II. BUSINESS LICENSES*

Sec. 12-21. Business licenses required.

No person, sole proprietor, partnership, corporation or other business organization shall carry on a business at a physical location within the City of Nixa without securing a license as set out in this chapter and paying the fee for same established in section 2-151 of this Code.

(Prior Code, § 11-1; Ord. No. 1150, 1-8-2001; Ord. No. 1827, 10-20-2014; Ord. No. 2331, § 6, 10-23-2023)

Sec. 12-22. Nonapplicability of article to agricultural or horticultural products, etc.

This article shall not apply to agricultural or horticultural products grown or produced in the state, when the same are offered for sale or exchange by the producer thereof, nor to their agents or employees; nor shall this article apply to motor vehicles used and operated by established merchants or by persons who have paid an ad valorem tax in the city for the current year, equal to or more than the prescribed privilege tax levied in this article; nor to those merchants of the city in delivering goods, wares or merchandise sold at their establishment or place of business within the limits of the city.

(Prior Code, § 11-9)

Sec. 12-23. Separate license for each place of business.

A separate license shall be obtained for each place of business operated by a licensee under this chapter.

(Prior Code, § 11-4)

***State law references**—Occupations and professions generally, RSMo ch. 324 et seq.; municipal taxing authority generally; authority to impose business licenses taxes, RSMo 71.610; merchant, manufacturer, itinerant vendor, and peddler licenses and taxes, RSMo 150.010 et seq.

Sec. 12-24. Duration of licenses; proration of license fees, etc.

The term of the license issued pursuant to this chapter shall be for one (1) year, beginning January 1 and ending December 31 of the same year. Businesses failing to submit an application for license renewal by March 31 will be deemed late and shall be charged a late fee. All license fees shall be paid in full and in advance.

(Prior Code, § 11-2; Ord. No. 1827, 10-20-2014)

Sec. 12-25. Display of licenses.

All licenses issued under this chapter shall be displayed in a conspicuous place in the place of business authorized to be conducted and shall be removed after the expiration.

(Prior Code, § 11-3)

Sec. 12-26. Engaging in more than one occupation at the same place of business.

Every person engaged in more than one occupation, where such occupations are operated as one business under the same management, and at the same location, shall pay an individual license for each part of such business.

(Prior Code, § 11-5)

Sec. 12-27. Record of licenses issued.

The city shall keep a complete record of all licenses issued under this chapter showing the name and address of the licensee, the nature of the license, and the dates of issue and expiration of such license.

(Prior Code, § 11-6)

Sec. 12-28. Itinerant merchant.

No person shall exercise, carry on, or engage in selling, exchanging, or trading personal property, goods, wares, or merchandise from a motor vehicle in the city without first having obtained a license therefore from the city. The license required by this section shall be issued by the city clerk upon payment of a fee as established in section 2-151 of this Code. Any person seeking a license under this section shall submit to a criminal background check as part of the application process. No person who has been convicted of felony within the past seven years or a misdemeanor involving moral turpitude or false statements shall be issued a license under this section. The term of the license issued pursuant to this section shall be for one year, beginning January 1 and ending December 31 of the same year. The fee for said license shall not be prorated.

(Prior Code, §§ 11-7, 11-8; Ord. No. 2331, § 7, 10-23-2023)

State law reference—Itinerant vendor licenses and taxes, RSMo 150.010 et seq.

Sec. 12-29. Collection and accounting for taxes collected under article.

The license taxes provided for in this article shall be collected by the finance director and accounted for as other license taxes. The license required by said sections shall not be issued

until the amount prescribed therefor shall have been paid to the finance director, and no license shall be assigned or transferred. All licenses shall be approved and signed by the city clerk.

(Prior Code, § 11-10; Ord. No. 1234, 10-2004)

Sec. 12-30. Sales tax payment required.

Before a business license can be issued under this chapter, the applicant for a business license must be current in the payment of all sales tax to the director of revenue.

(Prior Code, § 11-11; Ord. No. 1251, 5-2003)

Sec. 12-31. Effect of conviction or finding of guilt, fault or liability of proscribed activity.

(a) For purposes of this section, the term "proscribed activity" shall include the following:

- (1) Those acts prohibited by RSMo 567.010—567.040 or 567.080;
- (2) Those acts found to constitute violations of the provisions of RSMo 285.525—285.550, chs. 407 or 416, including but not limited to those acts and practices described in 15 CSR 60-8.010 through 15 CSR 60-8.090, inclusive, of the code of state regulations;
- (3) Those acts found under other provisions of federal or state statutory or common law to constitute unfair pricing, fraudulent, unreasonable or unconscionable trade or sales practices, price gouging or price fixing with respect to the sale of goods, labor and/or services; or
- (4) Those acts found to constitute violations of the criminal code of the state (RSMo 556.011 et seq.).

(b) Any person licensed pursuant to this chapter who is convicted or found guilty with a suspended imposition of sentence for the commission of a proscribed activity, as defined in this section, by a court of competent jurisdiction, and who uses a city license in any way whatsoever as a means to assist the person to engage in a proscribed activity or who allows his employee or agent to engage in such proscribed activity shall be subjected to revocation or suspension of his city license in accordance with the procedure set forth in section 12-32.

(c) Any person who has failed to secure such license shall be prohibited from securing the required license if the city clerk determines that such person was convicted of a proscribed activity by a court of competent jurisdiction and did use the activity required to be licensed to assist the person to engage in a proscribed activity; except such person may, upon the license being denied, request a hearing pursuant to section 12-32 and shall be entitled to a hearing in accordance with the procedures set out in this chapter.

(Prior Code, § 11-12; Ord. No. 1564, 12-2008)

Sec. 12-32. Revocation or denial of license.

(a) All business licenses issued pursuant to this chapter shall be issued by the city clerk upon the condition that the licensee complies with this section. No licensee shall cause, maintain or permit a nuisance as prohibited by chapter 14 in the conduct of the business for which the license is issued or on land where the business is licensed, nor shall any licensee operate the business in violation of any provision of this Code that applies to the operation of that business. Any person who operates a business licensed pursuant to this chapter in violation of any provision of this Code that applies to the operation of the business, or who maintains, causes or permits a nuisance prohibited by Chapter 14 in the conduct of the business, or on land where the business is licensed shall be subject to having the business license revoked or not renewed by the city clerk in accordance with procedures set forth in this chapter. The city clerk shall not issue a business license when the city clerk has reason to believe that the issuance of the license will result in the operation of the business in violation of this Code or that the operation of the business will cause or result in a nuisance or that a nuisance is on the land where the business is to be licensed. Upon the city clerk's making a determination that there may be a violation of this section, the city clerk shall notify the applicant in writing that the city clerk will not issue the license, that the city clerk will not renew the license, or that the city clerk is revoking the license, stating the reasons for the city clerk's decision.

(b) If the city clerk determines that the application for a license is not to be granted or if city clerk determines not to renew the license, then the notice to the person requesting the license or renewal thereof shall give the applicant at least five days' notice to request an informal meeting with the city clerk. The city clerk shall, if a hearing is requested within that time, hold an informal meeting with the applicant, informing the applicant of the basis upon which the decision was made, and shall attempt to informally resolve the matter. After such informal meeting, the city clerk may reverse the decision or may reaffirm the decision in writing. Thereafter, the applicant may request a public hearing by filing a written request with the city clerk within 15 days of the date of the city clerk's decision. At the public hearing, a hearing officer appointed by the city administrator shall hear evidence, determine the facts upon the evidence presented at the hearing, and render a decision.

(c) If the city clerk takes action to revoke a license, he shall provide the licensee with notice in writing concerning the basis upon which the revocation is made, setting forth a date for an informal meeting with the licensee, giving the licensee at least five days' notice. If the licensee does not appear at the informal meeting or if the licensee appears and the matter is not resolved, the city clerk shall set a public hearing by giving the licensee at least ten days' written notice of the public hearing. At the public hearing, a hearing officer appointed by the city administrator shall hear evidence, determine the facts based upon the evidence presented at the hearing, and render a decision.

(d) The hearing officer shall have all the powers set forth in section 12-33 and shall conduct the hearing in accordance with the procedures set forth in that section. The hearing officer shall determine whether or not there is a basis for not issuing the license, not

renewing the license or revoking the license. The decision of the hearing officer and the right to appeal his decision shall be in accordance with section 12-34. All notices for the purpose of this section shall be deemed to occur two days after the date the notice is placed in the United States mail, postage prepaid.

(e) After the decision of the city clerk or the hearing examiner becomes final, the penalty under this chapter for operating a business without a license shall be a fine up to \$500.00 per day of each day the person operates the business without a license. The city may, in addition to the penalties set forth in this section, seek civil penalties in a court of competent jurisdiction of \$500.00 per day for each day a person operates a business without a business license.

(Prior Code, § 11-13; Ord. No. 1564, 12-2008)

Sec. 12-33. Hearing.

If a person requests a hearing under the provisions of section 12-32, the city clerk shall set a date for such hearing, giving the person at least seven days' written notice of the hearing. The hearing officer appointed by the city administrator shall hear the case and make a determination in accordance with the provisions of RSMo ch. 536. The city attorney, on behalf of the city, or any party to the proceeding may request that the city clerk issue subpoenas for witnesses or subpoenas duces tecum to be issued for any book, paper, record or memorandum, which records shall be produced at such hearing. The administrative hearing officer shall cause a record of the case to be kept and copies shall be made available to any interested person upon the payment of a fee. Decisions of the hearing officer shall be binding and shall be subject to appeal by either party, including the city. Such hearing need not be conducted according to the rules of evidence. Any relevant matter may be admitted and considered by the hearing officer if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and the hearing officer shall rule on such objection.

(Prior Code, § 11-14; Ord. No. 1564, 12-2008)

Sec. 12-34. Decisions to be in writing: appeals.

The decision of the hearing officer under this division shall be in writing and shall be subject to appeal under RSMo ch. 536. All decisions of the hearing officer shall be final decisions 30 days after the mailing or personal service of the decision.

(Prior Code, § 11-15; Ord. No. 1564, 12-2008)

Secs. 12-35—12-56. Reserved.

ARTICLE III. SECONDHAND GOODS***Sec. 12-57. 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:

Storage means keeping any items or series of similar items for more than five business days.

(Prior Code, § 11-16-5; Ord. No. 1702, 10-2011; Ord. No. 1706, 10-17-2011)

Sec. 12-58. Participant businesses defined.

(a) Every person and/or business licensed by the city that is regularly engaged in or conducting business for the purchase, sale, barter, exchange, recycling, reselling or pawn of antiques, jewelry, coins, any metal, including but not limited to aluminum, copper, gold, silver, brass, bronze and platinum; gems, and semiprecious stones, watches, firearms, power tools, hand tools, computers, electronic equipment, cameras and camera equipment, including but not limited to film, digital and videotape, still and motion pictures cameras and camcorders, and associated recording and viewing equipment, electronic game equipment and game cartridges or discs, compact digital disks (CDs), digital video discs (DVDs), musical instruments and equipment, bicycles, and any self-propelled device not required to be licensed by the state department of revenue, including but not limited to: every pawnbroker, flea market merchant, secondhand dealer of the goods described in this section, coin dealer, jeweler, and junk dealer, both wholesale and retail, shall, within one year of the adoption of this article, maintain an electronic inventory tracking system which is capable of delivery and transmission of all statutorily-required information via computer to the entity designated by the city police department.

(b) For the purpose of this article, the term "engaged in or conducting business" means the purchase, sale, barter, exchange of any item mentioned in this section, including the advertising therefor, and including such business conducted by an established dealer in a permanent location, and including any temporary, transient or itinerant business, whether or not such dealer is engaged in other business activities at such location. In this article the term "required business" means any business engaging in the activities described in this section.

(Prior Code, § 11-16-1; Ord. No. 1702, 10-2011; Ord. No. 1706, 10-17-2011)

Sec. 12-59. Information required for retention.

(a) The owner/operator of a required business shall record a description of all personal property, including all gems or metals, pledged with him or purchased by him, except those items purchased from wholesale dealers of such items, including any number, letter, marking, or engraving that may be on such property for purposes of identification, including

***State law reference**—Records of secondhand dealers, RSMo 407.300 et seq.

any owner applied markings. Additionally, the owner/operator shall identify the person presenting the item for sale, pawn, exchange, or recycling and record the following pertinent data: name, race, height, weight, date of birth, address (including city and state), along with the person's social security number and/or driver's license or state-issued ID number.

(b) Information shall not be collected verbally, and only recorded after the owner/operator has physically viewed and verified the person's identity as compared to any valid government-issued identification card previously described. The electronic database form shall be completed in full without any missing data or information.

(Prior Code, § 11-16-2; Ord. No. 1702, 10-2011; Ord. No. 1706, 10-17-2011)

Sec. 12-60. On-line reporting action required.

The owner/operator of a required business will be required to upload the information to the entity designated by the city police department within two business days of receipt of the goods received in purchase, sale, barter, exchange, or pawn.

(Prior Code, § 11-16-3; Ord. No. 1702, 10-2011; Ord. No. 1706, 10-17-2011)

Sec. 12-61. Holding period for precious gems and metals received by dealers.

No gold, silver, diamonds or other precious metals or semiprecious gems or precious metals received or purchased by any person subject to this article, including but not limited to all persons licensed by the city as pawnbrokers and engaged in such business as described in section 12-58, shall be removed from a designated location within the city within five business days after receipt thereof, except when redeemed by the original owner/seller, nor shall any such precious gems or precious metals be melted or re-cut within five business days from the receipt thereof, except when redeemed by the owner/seller. Furthermore, no person subject to this article, including but not limited to all persons licensed by the city as pawnbrokers and engaged in such business as described in section 12-58, shall sell, transfer ownership or possession of, or otherwise remove from said designated location any goods of any kind or type, including but not limited to all items described in section 12-58, received in purchase, sale, barter, exchange, or pawn for 24 hours from the time of the receipt of such goods, except for redemption of such goods by the owner/seller.

(Prior Code, § 11-16-4; Ord. No. 1702, 10-2011; Ord. No. 1706, 10-17-2011)

Sec. 12-62. Failure to comply; permit suspension and/or fine for repeat violations.

(a) The failure on the part of any owner/operator of a required business to comply with the provisions of this article shall be deemed a violation of the businesses permit as issued by the city, and will be subject to the suspension or revocation of the business license until such time that the owner/operator complies with the article.

(b) Any business owner/operator that fails to comply after having a business license suspended and/or revoked shall be guilty of an offense.

(Prior Code, § 11-16-6; Ord. No. 1702, 10-2011; Ord. No. 1706, 10-17-2011)

Secs. 12-63—12-81. Reserved.**ARTICLE IV. GARAGE SALES****Sec. 12-82. Definitions of section 101-2 to apply.**

For purposes of this article the definitions contained in section 101-2 of this Code shall also apply to this article, except where the context clearly indicates otherwise.

(Ord. No. 2352, § 1, 4-22-2024)

Sec. 12-83. Written notice of sale required.

No person shall advertise, conduct, carry on or permit any garage, patio, yard or other similar sale upon the grounds of or within any dwelling or accessory structure to a dwelling located in a residential district without first submitting to the city clerk in writing the name of the person holding or conducting such sale, the location of such sale, and the dates when such sale is to be held.

(Prior Code, § 11-32)

Sec. 12-84. Limit on number of sales.

No person shall conduct or permit more than two sales of the type required to be registered by section 12-83 on the same premises within any 12-month period, nor shall any such sale continue for more than three days.

(Prior Code, § 11-33)

Sec. 12-85. City-wide garage sale—Authorized.

Notwithstanding the provisions of this article to the contrary, persons are authorized to conduct, carry on, or permit any garage, patio, yard, or other similar sale upon the grounds of or within any dwelling or accessory structure to a dwelling located in a residential district, without providing written notice as required by section 12-83 of this Code for sales occurring on the second Friday, Saturday, and Sunday of May and occurring on the last consecutive Friday, Saturday, and Sunday occurring in September. Additionally, sales occurring during the periods described herein shall not count against the limits established in section 12-84 of this Code.

(Ord. No. 2276, § 1, 8-22-2022)

Secs. 12-86—12-100. Reserved.**ARTICLE V. RESERVED*****Secs. 12-101—12-125. Reserved.**

***Editor's note**—Ord. No. 2350, § 1, adopted March 25, 2024, repealed Article V, which pertained to mobile vending and derived from Ord. No. 2022, § I, 11-26-2018.

Chapter 13

RESERVED

Chapter 14

NUISANCES*

Article I. In General

Secs. 14-1—14-18. Reserved.

Article II. General Nuisance Abatement Procedure

- Sec. 14-19. Definitions.
- Sec. 14-20. Statutory authorization.
- Sec. 14-21. Declarations and purposes.
- Sec. 14-22. Exceptions.
- Sec. 14-23. Administration and enforcement.
- Sec. 14-24. Certain conditions or actions declared nuisances; listing deemed nonexclusive.
- Sec. 14-25. Nuisances prohibited.
- Sec. 14-26. Nuisance abatement.
- Sec. 14-27. Notice.
- Sec. 14-28. Hearing and appeal.
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Article III. Weeds

- Sec. 14-47. Maximum height allowed.
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Article IV. Unsafe Buildings

- Sec. 14-72. Purpose and scope.
- Sec. 14-73. Dangerous buildings defined.
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- Sec. 14-75. Standards for repair, vacation or demolition.
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- Sec. 14-79. Duties of the building commissioner.
- Sec. 14-80. Appeal.
- Sec. 14-81. Emergencies.
- Sec. 14-82. Violations; disregarding notice or orders.
- Sec. 14-83. Penalties.

***State law references**—Municipal authority for abatement of public nuisances, RSMo 67.398; expenses of suppression of nuisances, how paid, RSMo 71.780.

ARTICLE I. IN GENERAL**Secs. 14-1—14-18. Reserved.****ARTICLE II. GENERAL NUISANCE ABATEMENT PROCEDURE****Sec. 14-19. 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:

Abandoned, in addition to those definitions contained in applicable state statutes, state codes, other ordinances adopted by the city or as contained in binding case law decisions, refers to any item which has ceased to be used for its designed and intended purpose. The following factors, among others, will be considered in determining whether or not an item has been abandoned:

- (1) Present operability and functional utility;
- (2) The date of last effective use;
- (3) The condition of disrepair or damage;
- (4) The last time an effort was made to repair or rehabilitate the item;
- (5) The status of registration or licensing of the item.

Abate means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the code compliance official in his judgment shall determine is necessary in the interest of the general health, safety and welfare of the community.

Code compliance official means the city official or employee as may be designated in writing by the city administrator to enforce property or premises maintenance and other city code violations as authorized herein.

Dismantled means that from which essential equipment, parts or contents have been removed or stripped and the outward appearance verifies the removal.

Graffiti means defacement, damage or destruction by the presence of paint or ink, chalk, dye or other similar substances; or by carving, etching or other engraving.

Inoperable means incapable of functioning or producing activity for mechanical reasons or other reasons.

Junk vehicle means any vehicle which does not properly display license plates or stickers indicating current registration and has any one or more of the following characteristics:

- (1) Lacks engine, wheel, tire, properly installed battery or other structural parts which render the vehicle inoperable for use as designed by the manufacturer;
- (2) Has a missing windshield or missing windows;

- (3) Has a missing door, bumper, hood, driver's seat or other similar structural piece;
- (4) Has become or has the potential to become the breeding ground or habitat of rats, mice, snakes, mosquitoes or other vermin;
- (5) Has junk, garbage or refuse stored therein; or paper, cardboard, wood or other combustible materials stored therein; or is used as a storage facility for solid waste or other hazardous materials; or is used for the storage of gasoline, propane or diesel fuel at any location on or about the vehicle other than in the vehicle's gas or fuel tank;
- (6) Has become a potential source of contamination of the soil from petroleum products or other toxic liquids being discharged or leaking from the vehicle.

Lien holder means any person or entity who has a recorded interest in real property, including mortgagee, beneficiary under a deed of trust or holder of other recorded liens or claims of interest in real property.

Nuisance means, in addition to the conditions described within this chapter, any unlawful act or the failure to perform a duty, or permitting any condition or thing to be or exist on property owned or occupied in which such act, omission, condition or thing:

- (1) Injures or endangers the health, safety or welfare of others; and/or
- (2) Unlawfully interferes with the use of, obstructs or tends to obstruct or renders dangerous any property, path, sidewalk, stream, ditch or drainage.

Occupant means any person or persons holding and exercising temporary or terminable tenancy rights with respect to a residence, building or property including renters, lessees and/or other persons residing temporarily on the subject property.

Owner means the registered owner of a vehicle; the person to whom property tax is assessed on real or personal property as shown on the last equalized assessment roll of the county.

Parts means any mechanical, structural, body or decorative part of any vehicle, machinery or trailer.

Property means any land, lot, parcel or portion of land whether improved or unimproved, occupied or unoccupied, including any alley, sidewalk, parkway or public easement abutting such land, lot, parcel or portion of land.

Vehicle means any self-propelled vehicle not operating exclusively on tracks except for farm tractors. The term "vehicle" shall include, but is not limited to, an automobile, truck, van, sports utility vehicle, motorcycle, motorized scooter or dirt-bike.

(Prior Code, § 13-4; Ord. No. 1693, 7-2011)

Sec. 14-20. Statutory authorization.

The city council in recognition of its duty to provide for the health, safety and well-being of the citizens of the city affirms the need to suppress all nuisances which are or may be injurious to the health and welfare of the inhabitants of the city, or prejudicial to the morals thereof, that such nuisances may be suppressed by ordinances, and the expenses for abating these

nuisances may be assessed against the owner or occupant of the property and against the property on which said nuisance is committed and a special tax bill may be issued against said property for said expenses. Therefore, the city council of the city, ordains as provided in this article.

(Prior Code, § 13-1; Ord. No. 1693, 7-2011)

Sec. 14-21. Declarations and purposes.

(a) The city council does hereby find and declare that it is necessary to provide for the abatement of conditions which are detrimental to property values and community appearance, an obstruction to or interference with the comfort and enjoyment of adjacent property or premises, or hazardous or injurious to the health, safety or welfare of the general public in such ways that constitute a public nuisance and to establish community standards to safeguard health and public welfare in keeping with the character of the city by allowing for the maintenance of exterior property for each of the following purposes:

- (1) To safeguard the health, safety and welfare of the citizens of the city by maintaining exterior property in good and appropriate condition;
- (2) To promote a sound and attractive community appearance; and
- (3) To enhance the economic value of the community, and each area in it, through the regulation of the maintenance and conditions of property.

(b) Accordingly, the city council declares that the purposes of this article are to:

- (1) Reduce the threat to health, safety, welfare, appearance and economic value to the decline in property condition by lawfully delineating the circumstances under which such conditions are considered unlawful and/or abated; and
- (2) Further declare that abatement of such condition is in the best interest of the health, safety and welfare of the residents of the city, as maximum use and enjoyment of property or premises in proximity to one another depends upon maintenance of those properties at or above the established minimum standards as defined within this chapter.

(Prior Code, § 13-2; Ord. No. 1693, 7-2011)

Sec. 14-22. Exceptions.

(a) The provisions of this article do not regulate or place limitations on any properly zoned junkyard, salvage dealer or waste tire facility holding valid licenses and/or other necessary federal, state or municipal permits.

(b) The provisions of this article do not prohibit the proper storage of idle but operable recreational vehicles, boats or lawn mowing equipment.

(c) The provisions of this article do not prohibit the orderly storage of firewood.

(d) The provisions of this article are not intended to regulate or place limitations on any residential or commercial building project for which a valid building permit has been issued by the city. This exception shall be limited to the site for which any such permit was issued and this exception shall not apply if continuous and substantial progress toward completion of the building project is not being made.

(Prior Code, § 13-6; Ord. No. 1693, 7-2011)

Sec. 14-23. Administration and enforcement.

The mayor and city council hereby assign the duties of administering this article as follows:

- (1) The code compliance official within the planning and development department (or within such other department designated for enforcement by the city administrator) shall have the duty, responsibility and authority to enforce this article in any manner authorized by this Code or by any other law, including but not limited to issuance of citations, civil actions and abatement activity regulation.
- (2) The records divisions of the city police department and utility department will provide the planning and development department officials identifying information, when available, of the location and identifying descriptions of violators to assist the reporting, citation completion and service process.
- (3) For the purposes of inspections and/or enforcement of the provisions of this chapter, code compliance officials, planning and development department officials or his designees shall be authorized and permitted to enter upon the property of another without being considered trespassers.
- (4) All inspections and enforcement actions, unless expressly stated to the contrary, shall be under the direction of the code compliance official who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce the provisions of this article including, but not limited to, abatement activity, work orders, vegetation removal, mowing, etc.

(Prior Code, § 13-3; Ord. No. 1693, 7-2011)

Sec. 14-24. Certain conditions or actions declared nuisances; listing deemed nonexclusive.

(a) The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a public nuisance and a violation of this chapter; provided, however, this enumeration shall not be deemed or construed to be exclusive, limiting or restrictive:

- (1) No property owner shall be permitted to allow weeds, grass, brush, briars, and other rank vegetation to grow in excess of 12 inches in height, exclusive of ornamental shrubs or flowers, vegetable crops, fruit trees, berry bushes, cover crops and domestic grains or other cultivated crops. A violation unabated for a period greater than seven

days will warrant the issuance of a summons to the property owner. The property owner shall be responsible for all abatement costs. Owners of undeveloped land shall maintain their property so that weeds shall not exceed a height of 18 inches.

- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or items offensive to the senses or a risk to health, safety and/or welfare.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Allowing or permitting vegetation, grass or weeds to grow outside or extend beyond the boundaries of any lot or property to a length greater than six inches, to a height greater than 12 inches or encroach upon any sidewalk more than four inches.
- (5) Conditions contributing to or causing rank or noxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (6) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage or industrial wastes.
- (7) Abandoning, discarding or knowingly permitting to remain on premises or property, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semi-airtight container which has a capacity of 1½ cubic feet or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. No part of this subsection shall apply to any icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman of such products.
- (8) All furniture, machinery, discarded containers or any other appliance, article, item or equipment designed for use inside a dwelling unit if stored, placed or set upon the ground or on any open porch, in any attached carport or freestanding carport, or in any garage or shed that is without doors to conceal such articles.
- (9) To permit, cause, keep, maintain or allow a fence or partitioning containing barbed wire, razor wire, electric wire or razor ribbon fencing in any residential or commercially zoned district.
- (10) Dismantled, non-licensed, inoperable or junk vehicles as defined herein.
- (11) Bricks, shingles, building materials, salvage materials including, but not limited to, auto parts, scrap metal, tires and any other trade materials stored, deposited, dumped discarded and/or abandoned on any section of property.
- (12) Buildings, structures or other surfaces upon which graffiti exists.
- (13) Any flammable material which may endanger public safety.
- (14) All substances or things, which cause an odor disagreeable to the surrounding neighborhood.

- (15) Ashes, slop, filth, excrement, stones, straw, soot, rubbish, manure, offal, stagnant water, decaying animal matter, decaying fruit or vegetable matter, wrecks or parts of worn-out vehicles or machinery, scrap iron or other metals, cans, bottles, broken glass, discarded wearing apparel, dead animals or any other offensive or disagreeable substances or thing, dilapidated buildings or building materials which may be offensive to the sight or smell or a menace to health, safety, peace or comfort, or which may be or become harborers or breeding places for mosquitoes, ants, flies, rats, mice or other vermin, animals or insects, or which may provide shelter, food or protection for rodents, whether left or deposited upon private premises or vacant lots or upon any public property.
- (16) All mud, dirt, rocks or debris from construction sites, fields or pastures which fall on city streets from the loads, tires or bodies of vehicles driven from said sites onto city streets. Developers and contractors are required to provide the city with a route plan for construction traffic in and out of new subdivisions and development sites. Failure to do so will be a violation of this Code.
- (17) Any vehicle operable or not, parked off street in a residential district in a space not complying with the definition of vehicle accommodation area, as such term is defined in section 111-199 of the city code.
- (18) Airplanes, aircraft or helicopters stored in a driveway or parking space.
- (19) Reserved.
- (20) Vehicles, watercraft, and trailers used for storage. The storage of any items listed in section 14-24(a) of the city code that occupy more than one-half of a vehicle's passenger compartment or are piled on the hood, roof, or trunk of a vehicle. The storage of any items listed in section 14-24(a) of the city code within or upon a watercraft or trailer. Notwithstanding the foregoing, vehicles, watercraft, and trailers may be used for storage if located in a vehicle, watercraft, or trailer sales or service business, towing or storage facility, junkyard, or garage or other fully enclosed structure.

(Prior Code, § 13-5; Ord. No. 1693, 7-2011; Ord. No. 2092, § I, 11-25-2019; Ord. No. 2117, § 1, 5-11-2020; Ord. No. 2171, § 1, 2-22-2021)

Sec. 14-25. Nuisances prohibited.

- (a) It is unlawful for any owner or occupant having control of any lot or land or any part thereof in the city to cause, permit or maintain any nuisance on any such lot or land or contribute to the creation or maintenance of any nuisance as defined within this chapter; and it is further unlawful for any person or his agent, servant, representative or employee to cause or maintain a nuisance on the property of another, with or without permission.

(b) Any person who shall cause, create or maintain a nuisance or contribute to any nuisance as defined within this chapter shall be guilty of violating the provisions hereof and shall be liable for all costs and expenses attendant upon the removal and/or correction of such a nuisance in addition to any penalties provided. Each day that a nuisance is maintained can be the basis of a separate offense.

(Prior Code, § 13-7; Ord. No. 1693, 7-2011)

Sec. 14-26. Nuisance abatement.(a) *Summary abatement of nuisances.*

- (1) *Procedure.* Whenever a complaint is made to the code compliance official or upon discovery of the existence of a nuisance, as defined in this chapter, the code official shall promptly cause to be inspected the property on which it is alleged that such nuisance exists. Upon discovery of a nuisance, the code compliance official may order the owner or other person creating, keeping, maintaining, or permitting the same to abate it. Should the code official find that a public nuisance exists, and the public health, welfare or safety may be in immediate danger, then summary abatement procedures shall be implemented and the inspecting official or department may cause the nuisance to be removed or abated. Summary abatement costs shall be certified by the city clerk and assigned to the annual real estate tax bills for the property.
- (2) *Notice.* When summary abatement is authorized, notice to the owner, agent, or occupant of the property is not required. Following summary abatement, the code compliance official shall cause to be posted on the property liable for the abatement a notice describing the action taken to abate the nuisance.

(b) *Abatement of nuisances in other cases.*

- (1) *Procedure.* Whenever a compliant is made to the code compliance official or upon discovery of a nuisance that does not pose an immediate danger to the public health, welfare or safety, the code compliance official shall submit a written report of the property on which the nuisance exists to the city administrator or his designee. If the code compliance official declares the existence of a nuisance, but the nature thereof is not such as to require the summary abatement of such nuisance, then the city administrator, or his designee, may order the abatement of the nuisance after notice and a hearing pursuant to sections 14-27 and 14-28.
- (2) *Abatement by owner.* Within ten days after service of the notice to abate the nuisance, the owner or individual in possession of the affected property shall remove and abate such nuisance or show that actions for abating the nuisance have been commenced. Such showing shall be made by filing a written statement or other proof of such actions with the code compliance official.
- (c) *Abatement by city.* If the city administrator or his designee, after a hearing in compliance with this section, finds that the nuisance or dangerous condition exists, the chief of police or the code compliance official shall have authority to enter upon the property and abate the nuisance found thereon. In abating such nuisance, the chief of police or code compliance official may go to whatever extent may be necessary to complete the abatement of the nuisance. If it is practicable to salvage any material derived in the aforesaid abatement, the chief of police or code compliance official may sell the salvage material at private or public sale and shall keep an accounting of the proceeds thereof.

(d) *Proceeds from sale of private property.* The proceeds, if any, obtained from the sale of any material salvaged as a result of an abatement of public nuisance by the code compliance official or chief of police shall be deposited into the general fund of the city and any deficit between the amount so received and the cost of the abatement shall be filed with the city clerk. The city clerk shall certify said costs and submit a special tax bill to the assessor so that the costs can be added to the annual real estate tax bill for the property. Should the proceeds of the sale of the salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the public nuisance was abated when a proper claim to the excess is established.

(e) *Authorized action.* In abating a public nuisance, the code compliance official or chief of police may call upon any of the city departments or divisions for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the public nuisance.

(f) *Statement of costs.* The city is hereby empowered to charge and collect all costs of any abatement which is performed by the city, including administrative expenses, which shall be determined by the code compliance official, chief of police, planning and development department officials or his designees and/or municipal court. Said costs shall be reported to the city administrator or his designee in an itemized document titled "certificate of cost" showing the costs of abatement, administrative expenses and any outstanding penalties. Said costs shall be assessed and billed to the owner, occupant or entity having control of the property upon which the violation exists along with a notice advising that a special tax bill shall be issued and that the costs of the abatement will be added to the annual real estate taxes assessed against the property if the costs are not paid within 30 days. The person or entity causing, maintaining, or permitting the nuisance shall be personally liable to the city for the cost of such abatement.

(g) *Appeal of cost statements.* The property owner, occupants, or entities having control of the property may object to the assessment discussed in subsection (f) of this section. Such objections must be made in writing with 20 days from the date of mailing of the notice discussed in subsection (f) of this section. If no objections are received within the 20-day period, the city clerk is to proceed with the procedures set forth in subsection (h) of this section. If an objection is received, the city clerk shall refer the matter to the city administrator, or his designee, for administrative review. After administrative review, the city administrator, or his designee, shall make a written determination that the amount of the charges shall be canceled, reduced or remain the same. The city administrator, or his designee, may reduce or cancel the proposed assessment if it is determined that: no notice of order to remove the nuisance was provided; or the work performed for abating the nuisance was not in compliance with this chapter; or the computation of charges was not in compliance with this chapter. A copy of this determination shall be furnished to the person making the objections together with a notice of the person's right to appeal. The decision of the city administrator, or his designee, may be appealed pursuant to the provisions of RSMo ch. 536 by any person aggrieved, provided such appeal is filed within 30 days after the date of personal service or mailing of the city administrator's or his designee's decision.

(h) *Special tax bills and liens upon property.* In the event the person or persons billed fails to pay within the 30-day period set forth in this section, the city administrator, or his designee, shall certify the amount thereof to the city clerk. The city clerk shall take any and all steps necessary for a special tax bill to be issued and/or for the costs of the abatement to be added to the annual real estate taxes assessed against the property. The cost of the abatement as determined by the city administrator, or his designee, shall be certified to the city clerk not sooner than 30 days after issuance of the city administrator's, or his designee's written findings, if not sooner paid. The special tax bill, if issued, shall be deemed a personal debt against the property owners and shall be a lien on the property until paid. If the special tax bill is added to the annual real estate bill for the property and is not paid, the real estate taxes shall be considered delinquent and the collection thereof shall be governed by the laws applicable to delinquent real estate taxes. Such special tax bills, if not paid when due, shall bear interest at the rate of eight percent per annum.

(i) *Claim of lack of notice.* If, after a lien has been entered, there is a written request of the owner who alleges that the owner did not receive notice of the proposed assessment, the city clerk shall refer the matter for review pursuant to subsection (g) of this section. The lien may be canceled or reduced by the city administrator, or his designee, in administrative review, if it is determined that the owner did not receive notice of the proposed assessment, did not previously have knowledge of the lien or of the nuisance abatement work constituting the basis of the lien and could not, in the exercise of reasonable care or diligence, have had such knowledge, and, in addition, that the circumstances are such that a reduction or cancellation of the charges would have been appropriate had the matter been reviewed pursuant to this section prior to assessment. Upon receipt of a certification from the city administrator, or his designee, pursuant to subsection (g) of this section, the city clerk shall cancel or reduce the lien if required by determination of the city administrator. Even if the lien is reduced or eliminated under this section, the individuals, firms, corporation, or other owners of the property at the time at which the notice was served shall be personally liable for the amount of assessment including all interest, civil penalties and other charges.

(Prior Code, § 13-8; Ord. No. 1693, 7-2011)

Sec. 14-27. Notice.

(a) Upon verification of a reported nuisance violation within the city, the code compliance official shall provide a written notice to correct or abate. If the violation is on private property, proof that a person occupies the property, or that a person has possession or right to possession of the property, shall constitute prima facie evidence for the purposes of this article that such person has caused, maintained, or permitted the violation and such person shall be responsible for its abatement. If the property is vacant, evidence as to the record title owner from the county recorder's office shall be prima facie evidence for the purpose of this article that the owner has caused, maintained or permitted the violation, and such person shall be responsible for its abatement. The following methods of service of the written notice to abate shall be deemed adequate:

- (1) By personal service upon the owner or occupant of the property upon which the nuisance exists or upon the person or persons or other responsible party causing or maintaining the violation;

- (2) By sending the notice by certified mail to the last known address of the owner, occupant or person causing or maintaining the nuisance;
 - (3) By publishing the notice once a week for two consecutive weeks in a newspaper of general circulation in the city, or by posting the notice in a conspicuous place on the property or building whereupon the nuisance exists.
- (b) In addition to the notice requirements of this chapter, the notice to abate a nuisance issued under the provisions of this article shall contain:
- (1) The street address or legal description of the property;
 - (2) A description of the condition or conditions alleged to constitute a nuisance;
 - (3) That a hearing is scheduled with the hearing officer on a date not sooner than ten days after the date of service by any of the methods stated in subsection (a) of this section;
 - (4) That proof of the commencement of such abatement actions must be submitted to the code compliance official not later than three working days before the date scheduled for the hearing to determine whether the nuisance or dangerous condition will be held; and
 - (5) That the hearing may be held without the presence of any owner, lien holder, occupant or representative.

(Prior Code, § 13-9; Ord. No. 1693, 7-2011)

Sec. 14-28. Hearing and appeal.

(a) *Procedure.* The owners, lien holders and occupants of the property who have been served with notice pursuant to section 14-27, and who do not submit sufficient proof of the commencement of the such abatement to the code compliance official not later than three working days before the date before the scheduled hearing, may appear in person or by representative at the hearing with the hearing official scheduled on a date not sooner than ten days after the date of service of the notice as provided in section 14-27. Said hearing will be conducted by a hearing officer appointed by the mayor.

(b) *Hearing.* The hearing officer shall conduct a full and adequate hearing upon the question of whether a public nuisance in fact exists. The hearing officer may amend or modify the notice to extend the time for compliance with the notice by the owner by such date as the hearing officer may determine.

(c) *Evidence.* The owners, lien holders, occupants of the property, or their representative or agents shall be given the opportunity to present evidence to the hearing officer in the course of the hearing.

(d) *Order.* Should the evidence support a finding that the condition constitutes a nuisance, the hearing officer shall issue an order making specific findings of fact, based on competent and substantial evidence, which shows that the condition constitutes a public nuisance and that it should be removed, repaired or otherwise abated by the city.

(e) *Additional time.* The hearing officer, upon written application by the owner at any time within the period after the notice has been served, but before the scheduled hearing, may grant additional time for the owner to effect the abatement of the nuisance, provided that such extension is limited to a specific time period.

(f) *Costs.* The costs of performance of the abatement performed by the city in accordance with the hearing officer's order shall be certified and billed in accordance with section 14-26(f). If the bill is not paid within 30 days, the city clerk is to follow the procedures set-forth in 14-26(h) regarding special tax bills and liens against real estate.

(g) *Appeal procedures.* If, upon a hearing, the hearing officer determines that a violation exists, proper notice was given, and there has been a failure to abate the nuisance, the hearing officer shall make an order directing the chief of police or the code compliance official to have the nuisance abated or removed. The decision of the hearing officer that a nuisance exists and is to be abated may be appealed pursuant to the provisions of RSMo ch. 536, by any person aggrieved, provided such appeal is filed within 30 days after the date of personal service or mailing of the hearing officer's decision.

(h) *Finality of judgment.* If the judgment is not appealed to the circuit court within 30 days as set forth in subsection (g) of this section, then the judgment will be declared final per RSMo ch. 536.

(Prior Code, § 13-10; Ord. No. 1693, 7-2011)

Sec. 14-29. Other remedies.

The procedures set forth in this article shall be in addition to any other remedies that may exist under law for the abatement of public nuisance, and this article shall not prevent the city from prosecuting violations of this chapter, a conviction of which shall be punishable pursuant to section 1-9, or proceeding in a civil cause of action for abatement of nuisances created by the accumulation of unsightly, dangerous or noxious personal property within the borders of the city. Upon the successful prosecution of such civil cause of action, the city may be awarded by the court reasonable attorney's fees, litigation expenses, expert fees, and court costs incurred in such action.

(Prior Code, § 13-11; Ord. No. 1693, 7-2011)

Sec. 14-30. Search and seizure warrants.

(a) Subject to the provisions of this section, the code compliance officer is hereby authorized to apply for, and the municipal court judge is hereby authorized to grant, search and seizure warrants for the purpose of enforcing the provisions of this chapter.

(b) For the purpose of enforcing the provisions of this chapter, the code compliance officer is authorized to enter property to inspect for or to abate any nuisance. If the code compliance officer cannot obtain consent to enter property, the city attorney may apply for a warrant from the municipal court judge. Such application shall state facts sufficient to show probable

cause for issuance of a warrant to inspect or search for violations of this chapter, or to show that entry, seizure, or abatement is authorized by this chapter. The application may be supplemented by written affidavit or other supporting information.

(c) The municipal court judge shall determine whether sufficient facts have been stated to justify the issuance of a warrant. If it appears from the application and any supporting information that there is probable cause to inspect or search for violations of this chapter, or that entry, seizure, or abatement is authorized by this chapter, a warrant shall be immediately issued authorizing such actions.

(d) The search and seizure warrant issued by the municipal court judge shall describe the specific location subject to the warrant and what, if anything, may be inspected, seized, or abated on the property. Such warrant shall be served at reasonable hours and only by an official charged with the enforcement of this chapter and in the company of a uniformed police officer of the city during the execution of the warrant. Such warrant shall be executed by the code compliance official as soon as practicable and shall expire if it is not executed within ten days after it has been issued by the municipal court judge.

(Ord. No. 2125, § 1, 6-8-2020)

Secs. 14-31—14-46. Reserved.

ARTICLE III. WEEDS

Sec. 14-47. Maximum height allowed.

No property owner shall be permitted to allow weeds, grass, brush, briars, and other rank vegetation to grow in excess of 12 inches in height, exclusive of ornamental shrubs or flowers, vegetable crops, fruit trees, berry bushes, cover crops and domestic grains or other cultivated crops. A violation unabated for a period greater than five days will warrant the issuance of a summons to the property owner. The property owner shall be responsible for all abatement costs. Owners of undeveloped land shall maintain their property so that weeds shall not exceed a height of 18 inches.

(Prior Code, § 9-26; Ord. No. 1179, 3-2002)

Sec. 14-48. Notification of property owner.

In the event any property owner shall allow his property to grow up in the manner described in section 14-47, it shall be the duty of the code enforcement personnel to notify said property owner of this article in accordance with section 14-23.

(Prior Code, § 9-27; Ord. No. 1179, 3-2002)

Sec. 14-49. Removal or abatement.

Failure to correct the conditions described in section 14-47 shall result in abatement or removal by the city in accordance with section 14-23.

(Prior Code, § 9-28; Ord. No. 1179, 3-2002)

Secs. 14-50—14-71. Reserved.**ARTICLE IV. UNSAFE BUILDINGS*****Sec. 14-72. Purpose and scope.**

It is the purpose of this article to provide a just, equitable and practical method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this article shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the city.

(Prior Code, § 13-16; Ord. No. 763, 6-1992)

Sec. 14-73. Dangerous buildings defined.

All buildings that are detrimental to the health, safety or welfare of the residents of the city and that have any or all of the following defects shall be deemed "dangerous building":

- (1) Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- (2) Those that, exclusive of the foundation, show 33 percent or more damage or deterioration of the supporting member or members, or 50 percent damage or deterioration of the mensuration enclosing or outside walls or covering.

***State law reference**—Unsafe buildings, RSMo 67.400, 67.410.

- (3) Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
- (4) Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.
- (5) Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
- (6) Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
- (8) Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
- (9) Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

(Prior Code, § 13-17; Ord. No. 763, 6-1992)

Sec. 14-74. Dangerous buildings declared nuisance.

All dangerous buildings, as defined by section 14-73, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

(Prior Code, § 13-18; Ord. No. 763, 6-1992)

Sec. 14-75. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building inspector and the building commissioner, in ordering repair, vacation or demolition of any dangerous building:

- (1) If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this article, it shall be ordered repaired.
- (2) If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered vacated and repaired.
- (3) In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this article, it shall be demolished.

(Prior Code, § 13-19; Ord. No. 763, 6-1992)

Sec. 14-76. Building inspector.

All city police officers and all other city employees so designated by the city administrator shall be building inspectors within the meaning of this article.

(Prior Code, § 13-20; Ord. No. 763, 6-1992)

Sec. 14-77. Duties of building inspector; procedure and notice.

- (a) The building inspector shall have the duty under this article to:
 - (1) Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.
 - (2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article, and the building inspector determines that there are reasonable grounds to believe that such building is dangerous.
 - (3) Inspect any building, wall or structure reported by the fire or police departments of this city as probably existing in violation of this article.
 - (4) Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of Christian County, of any building found by him to be a dangerous building within the standards set forth in section 14-73.
- (b) The notice required shall state that:
 - (1) The owner must vacate, vacate and repair or vacate and demolish said building in accordance with the terms of the notice and this article;
 - (2) The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession;
 - (3) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, at his own risk, repair, vacate or demolish or have such work done, provided that any person notified under this subsection to repair, vacate or demolish any building, shall be given such reasonable time not exceeding 30 days to commence the required work;
 - (4) The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time provided for in subsection (b)(3) of this section;

- (5) Report in writing to the city building commissioner the noncompliance with any notice to vacate, repair or demolish or upon the failure to proceed continuously with work without unnecessary delay;
- (6) Appear at all hearings conducted by the building commissioner and testify as to the condition of dangerous buildings;
- (7) Immediately report to the building commissioner concerning any building found by him to be inherently dangerous and that he determined to be a nuisance per se. The building commissioner may direct that such building be marked or posted with written notice reading substantially as follows:

"This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of the building, and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the order by the building commissioner and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this article to the notice and hearing prescribed herein.

(Prior Code, § 13-21; Ord. No. 763, 6-1992)

Sec. 14-78. Building commissioner.

The city administrator shall act as building commissioner under this article.

(Prior Code, § 13-22; Ord. No. 763, 6-1992)

Sec. 14-79. Duties of the building commissioner.

The building commissioner shall have the power pursuant to this article to:

- (1) Supervise all inspections required by this article, and cause the building inspector to make inspections and perform all the duties required of him by this article. Upon receiving a complaint or report from any source, that a dangerous building exists in the city, the building commissioner shall cause an inspection to be made forthwith. If the building commissioner deems it necessary to the performance of his duties and responsibilities imposed herein, the building commissioner may request an inspection and report be made by any other city department or retain services of any expert whenever the building commissioner deems such service necessary.
- (2) Upon receipt of a report from the building inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person having interest in said building to commence work of reconditioning or demolition within the time specified by this article or upon failure to proceed continuously with work without unnecessary delay, the building commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter. Written notice, either by personal service or by

certified mail, return receipt requested, or by publication for two successive weeks, in a newspaper qualified to publish legal notices, at least 21 days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before the building commissioner on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with statement of particulars set forth in the building inspector's notice as provided herein. Any party may be represented by counsel and all parties shall have an opportunity to be heard.

- (3) Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of section 14-73.
- (4) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the building commissioner shall issue an order based upon its findings of the fact commanding the owner, occupant, mortgagee, lessee, agent or other person having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this city or the owner or any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the city of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.
- (5) If the owner, occupant, mortgagee or lessee fails to comply with the order within 30 days, the building commissioner shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant; and the building commissioner shall certify the cost of the work borne by the city for such repair, vacation or demolition to the city clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be lien upon said property and shall be deemed a personal debt against the property owner. Except as provided in subsection (6) of this section, at the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten years; said assessment shall bear interest at the rate of ten percent per annum until paid.
- (6) As to damage or loss to a building or other structure caused by and arising out of any fire, explosion or other casualty loss, if an order is issued by the building commissioner as provided in subsection (5) of this section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. 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, the following procedure is established for the payment of up to ten percent of the insurance proceeds, as set forth in subsections (6)a and b of this section. This subsection shall apply only to a covered claim payment that is in excess of 50 percent of the face value of the policy covering a building or other structure:

- a. The insurer shall withhold from the covered claim payment up to 25 percent of the covered claim payment, and shall pay such moneys 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 article.
 - b. The city shall release the proceeds and any interest that has accrued on such proceeds received under subsection (6)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 moneys, unless the city has instituted legal proceedings under the provisions of subsection (5) of this section. If the city has proceeded under the provisions of subsection (5) of this section, all moneys in excess of that necessary to comply with the provisions of subsection (5) of this section for the removal of the building or structure, less salvage value, shall be paid to the insured.
- (7) If there are no proceeds of any insurance policy as set forth in subsection (6) of this section, at the request of the taxpayer, the tax bill may be paid in installments over a period not more than ten years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner until paid.
- (8) Subsection (6) of this section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- (9) Subsection (6) of this section does not make the city a party to any insurance contract, and the insurer is not liable to any party for an amount in excess of the proceeds otherwise payable under its insurance policy.
- (10) The building commissioner may certify in lieu of payment of all or part of the covered claim under subsection (6) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the building commissioner shall issue a certificate within 30 days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to subsection (6) of this section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this subsection.

(Prior Code, § 13-23; Ord. No. 763, 6-1992)

Sec. 14-80. Appeal.

Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in a dangerous building as shown by the land records of the recorder of deeds of the county wherein the land is located, may appeal to the circuit court as established in RSMo 536.100—536.140,

if a proper record as defined in RSMo 536.130 is maintained of the hearing provided by subsection 14-79(2); otherwise, the appeal shall be made pursuant to the procedures provided by RSMo 536.150.

(Prior Code, § 13-24; Ord. No. 763, 6-1992)

Sec. 14-81. Emergencies.

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished, the building inspector shall report such facts to the building commissioner and the building commissioner may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section 14-79(6).

(Prior Code, § 13-25; Ord. No. 763, 6-1992)

Sec. 14-82. Violations; disregarding notice or orders.

(a) The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the building commissioner shall be guilty of a misdemeanor and upon conviction shall be punished as set forth in section 14-83.

(b) Any person removing any notices provided for in this article shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with section 14-83.

(Prior Code, § 13-26; Ord. No. 763, 6-1992)

Sec. 14-83. Penalties.

(a) Any person violating the provisions of this article is guilty of a misdemeanor, except that if the owner of the property on which the dangerous building is located is not a resident of the property, the fine shall be an amount not exceeding \$2,000.00.

(b) Each day that a person fails to comply with an order of the building commissioner may be deemed a separate offense.

(Prior Code, § 13-27; Ord. No. 763, 6-1992)

State law reference—Required penalty, RSMo 67.410(4).

Chapter 15

RESERVED

Chapter 16

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ARTICLE I. IN GENERAL**Sec. 16-.005. Definitions.**

In this chapter, unless the context or specific section requires a different definition, the following definitions shall apply:

- (1) *Access*: To instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network.
- (2) *Affirmative defense*:
 - a. The defense referred to is not submitted to the trier of fact unless supported by evidence; and
 - b. If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not.
- (3) *Burden of injecting the issue*:
 - a. The issue referred to is not submitted to the trier of fact unless supported by evidence; and
 - b. If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue.
- (4) *Commercial film and photographic print processor*: Any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term "commercial film and photographic print processor" shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency.
- (5) *Computer*: The box that houses the central processing unit (CPU), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information refers to all the information on a computer system including both software applications and data.
- (6) *Computer equipment*: Computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network.
- (7) *Computer hardware*: All equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. Hardware includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained

laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks.

- (8) *Computer network:* Two or more interconnected computers or computer systems.
- (9) *Computer program:* A set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions.
- (10) *Computer software:* Digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs.
- (11) *Computer-related documentation:* Written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items.
- (12) *Computer system:* A set of related, connected or unconnected, computer equipment, data, or software.
- (13) *Confinement:*
 - a. A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:
 - 1. A court orders the person's release; or
 - 2. The person is released on bail, bond, or recognizance, personal or otherwise; or
 - 3. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement.
 - b. A person is not in confinement if:
 - 1. The person is on probation or parole, temporary or otherwise; or
 - 2. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in

either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement.

(14) *Consent*: Consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

- a. It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or
- b. It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
- c. It is induced by force, duress or deception.

(15) *Controlled substance*: A drug, substance, or immediate precursor in schedules I through V as defined in RSMo ch. 195.

(16) *Criminal negligence*: Failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

(17) *Custody*: A person is in custody when he or she has been arrested but has not been delivered to a place of confinement.

(18) *Damage*, when used in relation to a computer system or network, means any alteration, deletion, or destruction of any part of the computer system or network.

(19) *Dangerous instrument*: Any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

(20) *Data*: A representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer.

(21) *Deadly weapon*: Any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy club, blackjack or metal knuckles.

(22) *Digital camera*: A camera that records images in a format which enables the images to be downloaded into a computer.

- (23) *Disability*: A mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings.
- (24) *Elderly person*: A person 60 years of age or older.
- (25) *Forcible compulsion*: Either:
- a. Physical force that overcomes reasonable resistance; or
 - b. A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person.
- (26) *Incapacitated*: A temporary or permanent physical or mental condition in which a person is unconscious, unable to appraise the nature of his or her conduct, or unable to communicate unwillingness to an act.
- (27) *Inhabitable structure*: A vehicle, vessel or structure:
- a. Where any person lives or carries on business or other calling; or
 - b. Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or
 - c. Which is used for overnight accommodation of persons. Any such vehicle, vessel, or structure is inhabitable regardless of whether a person is actually present. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an inhabitable structure of another.
- (28) *Knowingly*: When used with respect to:
- a. Conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or
 - b. A result of conduct, means a person is aware that his or her conduct is practically certain to cause that result.
- (29) *Law enforcement officer*: Any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States.
- (30) *Misdemeanor*: An offense so designated or an offense for which persons found guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year or less.
- (31) *Of another*: Property that any entity, including but not limited to any natural person, corporation, limited liability company, 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.

- (32) *Offense*: Any ordinance violation.
- (33) *Physical injury*: Slight impairment of any function of the body or temporary loss of use of any part of the body.
- (34) *Place of confinement*: Any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held.
- (35) *Possess or possessed*: Having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint.
- (36) *Property*: Anything of value, whether real or personal, tangible or intangible, in possession or in action.
- (37) *Public servant*: Any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses.
- (38) *Purposely*: When used with respect to a person's conduct or to a result thereof, means when it is his or her conscious object to engage in that conduct or to cause that result.
- (39) *Recklessly*: Consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.
- (40) *Serious emotional injury*: An injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty.
- (41) *Serious physical injury*: Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.
- (42) *Services*: When used in relation to a computer system or network, means use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions.

- (43) *Sexual orientation:* Male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender.
- (44) *Vehicle:* A self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft.
- (45) *Vessel:* Any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than 12 feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars.
- (46) *Voluntary act:*
- a. A bodily movement performed while conscious as a result of effort or determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his or her control for a sufficient time to have enabled him or her to dispose of it or terminate his or her control; or
 - b. An omission to perform an act of which the actor is physically capable. A person is not guilty of an offense based solely upon an omission to perform an act unless the law defining the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by law.
- (47) *Vulnerable person:* Any person in the custody, care, or control of the department of mental health who is receiving services from an operated, funded, licensed, or certified program.

(Ord. No. 1921, § 1, 12-19-2016)

State law reference—Code definitions, RSMo 556.061.

Sec. 16-006 Attempt.

- (a) Guilt for an offense in this chapter may be based on an attempt to commit an offense if, with the purpose of committing the offense, a person performs a substantial step towards commission of the offense. A substantial step is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.
- (b) It is no defense to a prosecution that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission if such offense could have been committed if the attendant circumstances had been as the actor believed them to be.

(Ord. No. 1921, § 1, 12-19-2016)

State law reference—Attempt—Guilt for an offense may be based on, RSMo 562.012.

Sec. 16-1. Prohibiting pocket bikes and motorized scooters on public property.

(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:

Pocket bikes and *motorized scooters* mean self-propelled vehicles equipped with either an electric motor or an internal combustion engine with piston displacement of less than 50 cubic centimeters, has two or more wheels, has a seat or operating platform with a height of less than 27 inches, measured from lowest point of the seat or operating platform, and is ineligible for a state certificate of title.

(b) No person shall operate such a vehicle as defined herein upon the streets, highways, alleys, or sidewalks of the city or any property owned by the city.

(c) Nothing in this section shall be interpreted to apply to electric personal assistive mobility devices as defined in RSMo 307.205(1).

(Prior Code, § 14-50-1; Ord. No. 1389, 11-2005)

Sec. 16-2. Designation of nonsmoking and smoking places.

(a) No person shall possess lighted smoking materials in any form including, but not limited to the possession of lighted cigarettes, cigars, pipes, or other tobacco products, in the following places:

- (1) Any area accessible to the public within a commercial establishment, including, but not limited to banks, office buildings, restaurants, offices and stores that retail gasoline products or food items for preparation by the consumer at a location other than the store, and any other retail store;
- (2) Any vehicle of public transportation, including, but not limited to buses, limousines for hire and taxicabs;
- (3) Elevators;
- (4) Restrooms;
- (5) Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
- (6) Any public area of a health care facility, health clinic, or ambulatory care facility, including but not limited to, laboratories associated with the rendition of health care treatment, hospitals, rest homes, doctors' offices, and dentists' offices; provided hospitals and rest homes may accommodate smokers by providing separate rooms for smokers;
- (7) Any indoor place of entertainment or recreation, including, but not limited to gymnasiums, theaters, concert halls, arenas and swimming pools.
- (8) All public areas and waiting rooms of public transportation facilities, including, but not limited to bus and airport facilities;

- (9) Any other enclosed area used by the public not specifically posted as a smoking area;
- (10) Rooms in which meetings and/or hearings open to the public are held, except where such rooms are in a private residence;
- (11) Any area where food is displayed for sale or consumption; or
- (12) Inside any building or designated portion of a building, public or private, where signs have previously been erected prohibiting smoking.

(b) Notwithstanding any other provision of this section to the contrary, possession of lighted smoking materials in any form shall not be prohibited in the following areas unless the owner of the property or the person in control thereof conspicuously posts the area as a nonsmoking area:

- (1) An entire room or hall which is used for private social functions, provided the seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;
- (2) Limousines for hire and taxicabs, where the driver and all passengers affirmatively consent to smoking in such vehicle;
- (3) Performers upon the stage, provided the smoking is part of a theatrical production;
- (4) Designated areas of shopping malls;
- (5) Places where more than 50 percent of the volume of trade or business carried on is that of the blending of tobaccos, or sale of tobaccos, pipes, cigars or smokers' sundries;
- (6) Outside eating area at any restaurant;
- (7) Private residences;
- (8) Areas designated as employee smoking areas and which are not accessible to the general public.

(c) Designation of smoking areas:

- (1) The owner, manager, operator, or person who otherwise controls the use of any establishment or facility described in subsection (a) of this section shall designate the premises as "No Smoking," and shall post a sign in accordance with subsection (e) of this section unless subsections (a) and (b) of this section permits the designation of an area for smoking.
- (2) If designated smoking areas are permitted under provisions of subsections (a) and (b) of this section, then the owner, manager, operator or person who otherwise controls the use of the facility may designate areas of the facility for smoking by posting signs stating the facility has designated smoking and nonsmoking areas; provided, however, the designation of smoking areas shall not exceed a reasonable area needed to accommodate the customary and usual demand for such areas.

(d) Where smoking areas are designated, existing physical barriers and functioning ventilation systems shall be used to minimize the irritating and toxic effects of smoke in adjacent nonsmoking areas. This provision shall not be construed to require fixed structural or other physical modification in providing these areas or to require operating of any existing heating, ventilating and air conditioning system in any manner which decreases its energy efficiency or increases its energy efficiency or increases its electrical demand, or both, nor shall this provision be construed to require installation of new or additional heating, ventilating or air conditioning systems.

(e) The proprietor or other person having control of a place within subsection (a) of this section shall:

(1) Prominently post "No Smoking" signs, with letters of not less than one inch in height, or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it in every place where smoking is regulated by this section.

- a. The proprietor or other person in charge shall not knowingly permit, cause or allow any person to violate the provisions of this section.
- b. The proprietor or other person in charge shall take all reasonable steps necessary to enforce the terms of this article without being limited to giving personal notice to the alleged violator that they are acting contrary to local law and are subject to receiving a citation of violation of this section.

(2) In addition:

- a. Every theater owner, manager, or operator shall post signs conspicuously in the lobby stating smoking is prohibited within the theater or auditorium, except in those areas in the lobby which may be designated for smoking and in the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.
- b. Every public portion of grocery stores and food markets is required to have posted "No Smoking" signs at specific locations throughout each market as follows: signs must be visible to people entering the market, people at meat and produce counters, and people in all checkout lanes.

(f) Penalty for violation.

(1) A person (proprietor, other person in charge, employee or patron) commits an offense if the person:

- a. Knowingly smokes in a restaurant where smoking is prohibited by this article;
- b. Knowingly or by criminal negligence fails to post any signage required by this article;
- c. Knowingly or by criminal negligence designates or maintains a smoking area in violation of the requirements of this section; or
- d. Knowingly or by criminal negligence violates any other provision of this section.

- (2) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an infraction, punishable by a fine of \$100.00 for a first violation, and \$250.00 for each subsequent violation.
 - (3) A proprietor, other person in charge who fails to comply with the provisions of this article shall be guilty of an infraction punishable by a fine of \$250.00 for a first violation, and a fine of \$500.00 for each additional violation.
 - (4) Each day on which a violation of this section occurs shall be considered a separate and distinct violation.
 - (5) In addition to the fines established by this section, violation of this article by a proprietor or other person in charge may result in the suspension or revocation of any permit or license issued to that person for the premises on which the violation occurred.
- (g) This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
- (h) The authority to administer the provisions of this article is vested in the city administrator and his duly authorized representative. Whenever the need arises, the city administrator or authorized designee may call upon other departments of the city to aid in the enforcement of the provisions of this section.
- (i) Notice of the provisions of this article shall be given to all applicants for a restaurant business license located within the corporate limits of the city.
- (j) Any citizen who desires to register a complaint under this article may initiate enforcement with the city code enforcement officer.

(Prior Code, § 14-86; Ord. No. 1472, 2-2007)

State law reference—Indoor Clean Air Act, RSMo 191.765 et seq.

Sec. 16-3. Restrictions on tobacco and related product use in City of Nixa parks and venues controlled by the City of Nixa.

It shall be unlawful for any person to possess lighted smoking materials in any form, including, but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products. Furthermore, the use of other related products, including, but not limited to chewing tobacco, e-cigarettes, and vaping is prohibited in any outdoor place of entertainment or recreation owned or venues controlled by the City of Nixa, including, but not limited to, public parks of any type, and public swimming pools. Venues controlled by the City of Nixa shall mean that the City of Nixa has an agreement with the owner of the property for use by the City of Nixa to utilize said property for a City of Nixa organized event.

(Ord. No. 1840, 2-4-2015)

Secs. 16-4—16-22. Reserved.

ARTICLE II. OFFENSES INVOLVING INJURY TO THE PERSON**DIVISION 1. GENERALLY****Sec. 16-23. Common assault.**

- (a) A person commits the offense of assault if:
- (1) The person attempts to cause or recklessly causes physical injury, physical pain, or illness to another person; or
 - (2) With criminal negligence the person causes physical injury to another person by means of a firearm; or
 - (3) The person purposely places another person in apprehension of immediate physical injury; or
 - (4) The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person; or
 - (5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
 - (6) The person knowingly causes or attempts to cause physical contact with a person with a disability which a reasonable person, who does not have a disability, would consider offensive or provocative.

(b) Assault in the third degree is a misdemeanor.

(Prior Code, § 14-34; Ord. No 1921, § 2, 12-19-2016)

State law reference—Assault in the fourth degree, RSMo 565.056.

Sec. 16-24. Unlawful use of laser beam devices.

It shall be unlawful for any person to focus, point or shine a laser beam directly or indirectly on another person in such a manner as is intended to harass, annoy, or potentially cause bodily harm to said person.

(Prior Code, § 14-50; Ord. No. 1082, 4-1999)

Sec. 16-25. Window peeping.

No person shall go upon the property owned or leased by another and peer through windows, or other entryway, of a building on that property without the express or implied consent of the owner or duly authorized occupant.

(Prior Code, § 14-36)

Secs. 16-26—16-53. Reserved.

DIVISION 2. HARASSMENT AND STALKING

Sec. 16-54. Definitions; determination of location of offense.

(a) *Definitions.* For purposes of sections 16-55 through 16-57, the following words shall have the meaning set forth herein:

Course of conduct means a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." Such constitutionally protected activity includes picketing or other organized protests.

Disturbs means to engage in a course of conduct directed at a specific person that serves no legitimate purpose and that would cause a reasonable person under the circumstances to be frightened, intimidated or suffer emotional distress.

(b) *Determination of location of offense.* For purposes of sections 16-55 through 16-57, an offense alleged to have been committed by means of a writing, by telephone, by an electronic communications device or by any other means of communication, may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

(Prior Code, § 14-101; Ord. No. 1522, 2-11-2008; Ord. No 1921, § 2, 12-19-2016)

Sec. 16-55. Harassment.

(a) A person commits the offense of harassment if he or she, without good cause, engages in any act with the purpose to cause emotional distress to another person, and such act does cause such person to suffer emotional distress.

(b) This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.

(Prior Code, § 14-102; Ord. No. 1522, 2-11-2008; Ord. No 1921, § 2, 12-19-2016)

State law reference—Harassment, first degree, penalty, RSMo 565.090.

Sec. 16-56. Cyber-harassment.

(a) A person commits the offense of cyber-harassment if, with the intent to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass any other person, he transmits or causes the transmission of an electronic communication or knowingly permits an electronic communication to be transmitted from an electronic communication device under the person's control to such other person or a third party:

- (1) Using any lewd, lascivious, indecent or obscene words, images or language or suggesting the commission of any lewd or lascivious act;
- (2) Anonymously or repeatedly whether or not conversation occurs;

- (3) Threatening to inflict injury on the person or property of the person communicated with or any member of his family or household;
- (4) Knowingly frightens, or intimidates, or disturbs or causes emotional distress to another person by communicating by means of an electronic communication device using a false or anonymous identification; or
- (5) Transmits or causes the transmission of an electronic communication, or knowingly permits an electronic communication to be transmitted from an electronic communications device under his control, to a third party for the purpose of instigating, initiating, prompting or otherwise bringing about or causing such third party to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass such other person.
 - (b) Cyber-harassment shall be a misdemeanor and shall be punishable as provided in section 1-9.

(Prior Code, § 14-103; Ord. No. 1522, 2-11-2008)

Sec. 16-57. Stalking.

- (a) A person commits the offense of stalking if he or she purposely, through his or her course of conduct, disturbs or follows with the intent of disturbing another person and:
 - (1) Makes a threat communicated with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety, the safety of his or her family or household member, or the safety of domestic animals or livestock as defined in RSMo 276.606, kept at such person's residence or on such person's property. The threat shall be against the life of, or a threat to cause physical injury to, or the kidnapping of the person, the person's family or household members, or the person's domestic animals or livestock as defined in RSMo 276.606, kept at such person's residence or on such person's property; or
 - (2) At least one of the acts constituting the course of conduct is in violation of an order of protection and the person has received actual notice of such order; or
 - (3) At least one of the actions constituting the course of conduct is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; or
 - (4) At any time during the course of conduct, the other person is 17 years of age or younger and the person disturbing the other person is 21 years of age or older; or
 - (5) He or she has previously been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim; or
 - (6) At any time during the course of conduct, the other person is a participant of the address confidentiality program under RSMo 589.660 to 589.681, and the person disturbing the other person knowingly accesses or attempts to access the address of the other person.

(b) Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

(c) This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of any violation of federal, state, county, or municipal law.

(Prior Code, § 14-104; Ord. No. 1522, 2-11-2008; Ord. No 1921, § 2, 12-19-2016)

State law reference—Stalking, RSMo 565.225.

Secs. 16-58—16-87. Reserved.

ARTICLE III. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 16-88. Littering.

A person commits the offense of littering if he or she places, deposits, or causes to be placed or deposited, 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 or state highway or on or in any of the waters in this state or on the banks of any stream, or on any land or water owned, operated or leased by the state, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the federal government or on any private real property owned by another without the owner's consent.

(Prior Code, § 14-31; Ord. No. 858, 5-1994; Ord. No 1921, § 3, 12-19-2016)

State law reference—Similar provisions, RSMo 577.070.

Sec. 16-89. Destruction of property.

No person shall tamper with, break, cut, deface or injure, in any manner whatsoever, any house, building, fence, gate, sign, ornament or shade tree, shrubbery, lamp post, awning post, telephone, telegraph or electric light pole or wire, or fire alarm box or wire, or any other property of any kind belonging to another.

(Prior Code, § 14-32)

State law reference—Property damage, RSMo 569.100, 565.120.

Sec. 16-90. Stealing.

(a) A person commits the offense of stealing if he or she:

- (1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;
- (2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or
- (3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

(b) It shall be unlawful for any person to intentionally steal, take, and carry away within this city the property of another, either without his consent or by means of deceit. Those deemed guilty, and upon conviction before the police judge, shall be punished as provided by section 1-9.

(c) A person who appropriates lost property shall not be deemed to have stolen the same within the meaning of this section, unless such property is found under circumstances which gives the finder knowledge of, or means of inquiry as to the true owner.

(Prior Code, § 14-40; Ord. No. 784, 12-1992; Ord. No 1921, § 3, 12-19-2016)

State law reference—Stealing—Penalties, RSMo § 570.030.

Sec. 16-91. Violation for loitering upon closed parking lots.

(a) No person, except the owner, tenant or other person in possession or their invitees, shall loiter upon or about any public or private parking lot or upon any parking lot provided for the customers, business invitees or employees of any commercial or industrial establishments at any time any such public or private parking lot shall be closed to use by the public or any such commercial or industrial lot which shall be closed to use by customers, business invitees, and employees. Any such person found loitering upon any such lot or facility at any time that signs have been previously erected giving notice that the lot is closed to use after a certain hour which is designated thereon shall be presumptively upon the lot in violation of this section, which presumption shall be rebuttable. The term "private parking lot" shall, in addition to its customary meaning, include lots or areas devoted to the storage or display of new or used motor vehicles by dealers therein.

(b) No person shall leave any vehicle unoccupied on any business parking lot, except during the time such persons are in the business building or with the knowledge and consent of the operator of such business. The owner of the vehicle or lessee of said vehicle shall be presumed to be responsible for leaving any such vehicle on the premises.

(Prior Code, § 14-42; Ord. No. 887, 11-1994)

Sec. 16-92. Trespass.

(a) A person commits the offense of trespass if he or she knowingly enters unlawfully or knowingly remains 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.

(Prior Code, § 14-43; Ord. No. 1921, § 3, 12-19-2016)

State law reference—Trespass, RSMo 569.140 et seq.

Sec. 16-93. Breaking and entering.

Every person who shall be guilty of breaking into or entering the dwelling house of another, any church, school, commercial building, vacant building, or outbuilding without permission or license of the owner or person in charge thereof, for any unlawful purpose, shall be guilty of a misdemeanor.

(Prior Code, § 14-48; Ord. No. 784, 12-1992)

State law reference—Similar provisions, RSMo 569.170.

Secs. 16-94—16-114. Reserved.**ARTICLE IV. OFFENSES INVOLVING PUBLIC SAFETY****DIVISION 1. GENERALLY****Secs. 16-115—16-141. Reserved.****DIVISION 2. WEAPONS****Sec. 16-142. 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:

Antique, curio, or relic firearm means any firearm so defined by the National Gun Control Act, 18 USC Title 26, Section 5845, and the United States Treasury/Bureau of Alcohol, Tobacco and Firearms, 27 CFR 178.11:

- (1) Antique firearm is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof.
- (2) Curio or relic firearm is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or is at least 50 years old and associated with a historical event, renowned personage or major war.

Black jack means any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use.

Concealable firearm means any firearm with a barrel less than 16 inches in length, measured from the face of the bolt or standing breech.

Explosive weapon means any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury or substantial

or any device designed or adapted for delivering or shooting such a weapon. For the purposes of this subdivision, the term "explosive" shall mean any chemical compound mixture or device, the primary or common purpose of which is to function by explosion, including but not limited to, dynamite and other high explosives, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cords, igniter cords, and igniters or blasting agents.

Firearm means any weapon that is designed or adapted to expel a projectile by the action of an explosive.

Firearm silencer means any instrument, attachment or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

Gas gun means any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury; but not any device that ejects a repellent or temporary incapacitating substance.

Intoxicated means substantially impaired mental or physical capacity resulting from the introduction of any substance into the body.

Knife means any dagger, dirk, stiletto or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this chapter, the term "knife" does not include any ordinary pocketknife with no blade more than four inches in length.

Knuckles means any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

Machine gun means any firearm that is capable of firing more than one shot automatically, without manual reloading, by a single function of the trigger.

Projectile weapon means any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

Rifle means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

Short barrel means a barrel length of less than 16 inches for a rifle and 18 inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than 26 inches.

Shotgun means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth bore barrel by a single function of the trigger.

Spring gun means any fused, timed or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

Switchblade knife means any knife which has a blade that folds or closes into the handle or sheath, and:

- (1) That opens automatically by pressure applied to a button or other device located on the handle; or
- (2) That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

(Ord. No. 1720, § 14-105, 1-17-2012)

State law reference—Similar provisions, RSMo 571.010.

Sec. 16-143. Use of projectile weapons or firearms in the city limits.

(a) No person shall shoot, fire or discharge a projectile weapon or firearm within the city limits of the City of Nixa, or on any premises owned or controlled by the city, except a person may shoot, fire or discharge a projectile weapon on private property with the permission of the owner or occupant of such property, and under circumstances when such projectile weapon can be fired, discharged or operated in such manner as not to endanger any person or property, and in which the projectile's momentum is incapable of traversing any grounds or space outside the limits of such private property.

(b) This section shall not apply to the city police or other peace officers of the United States or the State of Missouri in the discharge of their duty or when done in the lawful use of force in the defense of person, property or family. Nor shall this section apply to persons who are engaged in a lawful act of defense pursuant to RSMo 563.031. This section shall not apply to the activities of the city.

(Prior Code, § 14-37; Ord. No. 1088, 5-1999; Ord. No. 1921, § 4, 12-19-2016; Ord. No. 2104, § I, 1-27-2020; Ord. No. 2184, § 1, 3-12-2021)

Sec. 16-144. Unlawful use of weapons.

(a) A person commits the offense of unlawful use of weapons, except as provided by RSMo 571.101 to 571.121, if he or she knowingly:

- (1) Carries, concealed upon or about his person, a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into an area where firearms are restricted under RSMo 571.107;
- (2) Sets a spring gun;
- (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in RSMo 302.010, or any building or structure used for the assembling of people;
- (4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner;

- (5) Has a firearm or projectile weapon readily capable of lethal use on his person, while he is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense;
- (6) Discharges a firearm within 100 yards of any occupied schoolhouse, courthouse, or church building;
- (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding;
- (8) Carries 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 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;
- (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in RSMo 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
- (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

(b) Subsections (a)(1), (8), and (10) of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection. Subsections (a)(3), (4), (6), (7), and (9) of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:

- (1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to RSMo 590.030 to 590.050 and who possess 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, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection (g) of this section, and who carry the identification defined in subsection (h) of this section, 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 the national guard while performing their official duty;

- (4) Those persons vested by article V, section 1 of the constitution of the state with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
 - (5) Any person whose bona fide duty is to execute process, civil or criminal;
 - (6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 USC 44921 regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
 - (7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;
 - (8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under RSMo 84.340;
 - (9) Any coroner, deputy coroner, medical examiner or assistant medical examiner;
 - (10) Any municipal or county prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney, municipal, associate or circuit judge, who has completed the firearms safety training course required under RSMo 571.111(2); and
 - (11) Any member of a fire department or fire protection district who is employed on a full time basis as a fire investigator and who has a valid concealed carry endorsement under RSMo 571.111, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.
- (c) Subsections (a)(1), (5), (8), and (10) 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 to any person 21 years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subsection (a) (10) of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.
- (d) Subsections (a)(1), (8), and (10) of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to RSMo 571.101 to 571.121, a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

(e) Subsections (a)(3), (4), (5), (6), (7) (8), (9), and (10) of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to RSMo 563.031.

(f) Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

(g) As used in this section, the term "qualified retired peace officer" means an individual who:

- (1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;
- (2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (3) Before such retirement, was regularly employed as a peace officer for an aggregate of 15 years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (4) Has a non-forfeitable right to benefits under the retirement plan of the agency if such a plan is available;
- (5) During the most recent 12-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;
- (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- (7) Is not prohibited by federal law from receiving a firearm.

(h) The identification required by subsection (b)(1) of this section is:

- (1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or
- (2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and
- (3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is

carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

(Ord. No. 1720, § 14-106, 1-17-2012; Ord. No. 1921, § 4, 12-19-2016)

State law reference—Similar provisions, RSMo 571.030.

Sec. 16-145. Possession, manufacture, transport, repair, sale of certain weapons.

(a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to knowingly possess, manufacture, transport, repair or sell:

- (1) An explosive weapon;
- (2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
- (3) A gas gun;
- (4) A switchblade knife;
- (5) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm;
- (6) Knuckles; or
- (7) Any of the following in violation of federal law:
 - a. A machine gun;
 - b. A short-barreled rifle or shotgun; or
 - c. A firearm silencer.

(b) A person does not commit a crime pursuant to this section if his conduct involved any of the items in subsection (a)(1) through (6) of this section, the item was possessed in conformity with any applicable federal law, and the conduct:

- (1) Was incident to the performance of official duty by the armed forces, National Guard, a governmental law enforcement agency, or a penal institution;
- (2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subsection (b)(1) of this section;
- (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;
- (4) Was incident to displaying the weapon in a public museum or exhibition; or
- (5) Was incident to using the weapon in a manner reasonably related to a lawful dramatic performance.

(Ord. No. 1720, § 14-107, 1-17-2012)

State law reference—Similar provisions, RSMo 571.020.

Sec. 16-146. Unlawful transfer of weapons.

- (a) A person commits the offense of unlawful transfer of weapons if he:
- (1) Knowingly sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to any person who, under the provisions of section 16-147, is not lawfully entitled to possess such;
 - (2) Knowingly sells, leases, loans, gives away or delivers a blackjack to a person less than 18 years old without the consent of the child's custodial parent or guardian, or recklessly sells, leases, loans, gives away or delivers any firearm to a person less than 18 years old without the consent of the child's custodial parent or guardian; provided, that this does not prohibit the delivery of such weapons to any peace officer or member of the armed forces or national guard while performing his official duty; or
 - (3) Recklessly sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to a person who is intoxicated.
- (b) For purposes of this section a person "act recklessly" or is "reckless" when he or she consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

(Ord. No. 1720, § 14-108, 1-17-2012; Ord. No. 1921, § 4, 12-19-2016)

State law references—Unlawful transfer of weapons, penalty, RSMo § 571.060; possession of firearm unlawful for certain persons—Penalty—Exception, RSMo § 571.070.

Sec. 16-147. Possession of firearm unlawful for certain persons—Penalty—Exceptions.

- (a) A person commits the offense of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:
- (1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony; or
 - (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.
- (b) The provisions of subdivision (1) of subsection (a) of this section shall not apply to the possession of an antique firearm.

(Ord. No. 1720, § 14-109, 1-17-2012; Ord. No. 1921, § 4, 12-19-2016)

State law reference—Similar provisions, RSMo 571.070.

Secs. 16-148—16-177. Reserved.

DIVISION 3. ALCOHOL-RELATED TRAFFIC OFFENSES

Sec. 16-178. Driving while intoxicated or drugged.

(a) A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated or drugged condition.

(b) A person found guilty of the offense of driving while intoxicated or drugged as a first offense shall not be granted a suspended imposition of sentence:

- (1) Unless such person shall be placed on probation for a minimum of two years; or
- (2) A DWI court or docket created under RSMo 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

(Prior Code, § 12-11; Ord. No. 1236, 4-2003. Ord. No. 1921, § 5, 12-19-2016)

State law reference—Similar provisions, RSMo 577.010.

Sec. 16-179. Driving under the influence of alcohol.

(a) A person commits the offense of driving with excessive blood alcohol content if such person operates:

- (1) A vehicle while having eight-hundredths of one percent or more by weight of alcohol in his or her blood; or
- (2) A commercial motor vehicle while having four one-hundredths of one percent or more by weight of alcohol in his or her blood.

(b) As used in this section, 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) A person found guilty of the offense of driving under the influence as a first offense shall not be granted a suspended imposition of sentence:

- (1) Unless such person shall be placed on probation for a minimum of two years; or
- (2) A DWI court or docket created under RSMo 478.007, or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

(Prior Code, § 12-11; Ord. No. 1236, 4-2003; Ord. No. 1921, § 5, 12-19-2016)

Sec. 16-180. Chemical test for alcohol content—Consent implied.

(a) Any person who operates a vehicle upon the public highways of this city shall be deemed to have given consent, subject to the provisions of RSMo 577.019 to 577.041, to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

- (1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was operating a vehicle while in an intoxicated condition;
- (2) If the person is under the age of 21, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was operating a vehicle or a vessel with a blood alcohol content of two-hundredths of one percent or more by weight;
- (3) If the person is under the age of 21, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater;
- (4) If the person is under the age of 21, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater; or
- (5) If the person, while operating a vehicle, has been involved in a collision or accident which resulted in a fatality or a readily apparent serious physical injury as defined in RSMo § 556.061, or has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any state law or county or municipal ordinance with the exception of equipment violations contained in RSMo ch. 306 and 307, or similar provisions contained in county or municipal ordinances.

The test shall be administered at the direction of the law enforcement officer whenever the person has been stopped, detained, or arrested for any reason.

(b) The implied consent to submit to the chemical tests listed in subsection (a) of this section shall be limited to not more than two such tests arising from the same stop, detention, arrest, incident or charge.

(c) To be considered valid, chemical analysis of the person's breath, blood, saliva, or urine shall be performed, according to methods approved by the state department of health and senior services, by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose.

(d) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

(e) Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood, breath, or urine sample analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of the most recent maintenance of such instrument.

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

(f) Any person given a chemical test of the person's breath pursuant to subsection (a) of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at any trial of such person for a violation of any state law or county or municipal ordinance, and at any license revocation or suspension proceeding held pursuant to the provisions of RSMo ch. 302. (Ord. No. 1921, § 5, 12-19-2016)

State law reference—Chemical tests for alcohol content of blood—Consent implied, when—Administered, when, how—Information available to person tested, contents—Videotaping of chemical or field sobriety test admissible evidence, RSMo § 577.020.

Secs. 16-181—16-196. Reserved.

DIVISION 4. FIREWORKS*

Sec. 16-197. Fireworks regulations.

(a) It shall be unlawful for any person within the city to discharge or cause to be discharged, ignited, fired or otherwise set in action within the city limits any fireworks, firecrackers, bottle rockets, sparklers, torpedoes, roman candles, fire balloons, squibs,

***State law reference—**Fireworks, RSMo 320.106 et seq.

snakes, spit-devils or other fireworks or substances of any combination whatsoever designed or intended for pyrotechnical use, as defined by pertinent state statutes, as considered class "C" or "B" explosives by the regulation of the United States Department of Transportation (USDT), except as provided in section 16-198. The manufacture of class "C" or "B" explosives as defined by the USDT within the city limits is prohibited.

- (b) Fireworks may be sold within the city in accordance with the following regulations:
 - (1) Temporary fireworks stands may be located in any commercial or manufacturing districts as long as the applicant meets the required conditions for a building permit.
 - (2) A temporary fireworks stand may be located within any other zoning district with a conditional use permit approved by the planning and zoning commission and city council.
- (c) Required conditions to receive a building permit from the city development department include:
 - (1) Proof of fireworks tax having been paid to state department of revenue.
 - (2) The stand must be located in an area zoned for commercial or manufacturing use, or must have a conditional use permit.
 - (3) A site plan must accompany all applications and must include;
 - a. A legal description of the property where the proposed stand is to be located.
 - b. The dimensions of the lot.
 - c. The location of existing buildings and distances from property lines.
 - d. The location of the proposed fireworks stand and the setbacks from the property lines.
 - e. The location of both the off-street parking area provided (one space for every 200 sq. ft. of stand area) and the city or state highway department approved access drive.
 - f. The zoning of the parcel where the stand is to be located.
 - (4) All applications must be submitted to the city development department five working days prior to issuance of any building permits. Conditional use permit applications must be submitted no later than April 18 for the May Planning and Zoning Commission Hearing.
 - (5) Setback requirements.
 - a. Fireworks stands are required to have a 50-foot front setback; a 25-foot side setback unless adjoining a commercial or less restrictive district, then zero; a 25-foot rear setback unless adjoining a commercial or less restrictive district, then ten feet.
 - b. The stand must be a minimum of 30 feet from any other building on the same or adjoining lot.

- c. Fireworks stands must be at least ten feet from any overhead electric line.
 - d. All tents and fireworks stands must be a minimum of 100 feet from any use involving sale or storage of gasoline, LP gas or any combustible product.
- (6) Fireworks stand requirements.
- a. 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.
 - b. All the area within and adjacent to tents or stands shall be maintained clear of grass, shavings or any combustible materials.
 - c. Minimum aisle width of 36 inches, kept free and unobstructed at all times.
 - d. Minimum exit way of 44 inches; a minimum of three exits are required.
 - e. Portable fire extinguishing equipment must be kept on premises at all times.
 - f. Electrical cords from the meter to the tent must be 12-2 with ground exterior wire.
 - g. All circuits entering the stand shall be protected by a GFI breaker.
 - h. Inspection will be required by the development department and the city fire protection district prior to any fireworks stand opening for business. Notification for inspection should be made by calling 725-5850 for development and 725-4025 for fire during regular business hours.
 - i. Hours of operation shall be June 20—July 2, 8:00 a.m. to 11:00 p.m., and July 3 and 4, 6:00 a.m. to 12:00 midnight.

(Prior Code, § 11-26; Ord. No. 1032, 11-1997; Ord. No. 1643, 4-2010)

Sec. 16-198. Permits for public displays.

(a) The city council shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair associations, amusement parks, other organizations or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator approved by the city council and shall be of such character and so located, discharged or fired so as, in the opinion of the city council after proper investigation, not to be hazardous to property or endanger any person.

(b) Applications for permits shall be made in writing at least 30 days in advance of the date of the display. After such privilege shall be granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(Prior Code, § 11-27)

Sec. 16-199. Bond for fireworks display required.

The permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the city council for the payment of all damages which may be caused whether to persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees, or subcontractors.

(Prior Code, § 11-28)

Sec. 16-200. Public discharge of fireworks; when permitted.

(a) Unless a burn ban is in effect, the discharge of fireworks by the general public is permitted inside the city limits for the following dates:

- (1) July 3 and July 4 between the hours of 2:00 p.m. and 11:00 p.m.
- (2) December 31 from 2:00 p.m. through January 1 to 12:30 a.m.

(b) However, the discharge of fireworks must be done safely, and any complaint that details hazardous activities, malicious conduct or any act in conflict with city ordinances, state or federal laws may result in the seizure of fireworks and/or prosecution in accordance with applicable law. Additionally, anyone under the age of 17 must be supervised by a parent or adult when handling, discharging, or assisting in the discharge of fireworks. The city fire department will be authorized to assist in regulating and confiscating fireworks.

(Prior Code, § 11-28-2; Ord. No. 1643, 4-12-2010; Ord. No. 2266, § 1, 6-29-2022; Ord. No. 2313, § 1, 6-12-2023)

Secs. 16-201—16-223. Reserved.**ARTICLE V. OFFENSES INVOLVING PUBLIC PEACE AND ORDER****Sec. 16-224. Peace disturbance.**

A person commits the offense of peace disturbance if he or she:

- (1) Unreasonably and knowingly disturbs or alarms another person or persons by:
 - a. Loud noise; or
 - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or
 - c. Threatening to commit a felonious act against a person under circumstances which are likely to cause a reasonable fear that such threat may be carried out; or
 - d. Fighting; or
 - e. Creating a noxious or offensive odor;

- (2) Is in a public place or on the private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
- a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.

(Prior Code, § 14-33; Ord. No. 1921, § 6, 12-19-2016)

State law reference—Peace disturbance—penalty, RSMo 574.010.

Sec. 16-225. Prohibiting use of heavy equipment during certain hours.

The use of heavy equipment including bulldozers and dump trucks or blasting activity within the city other than between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Saturday, excluding holidays observed by the city, is prohibited, except and then only with a permit from the city clerk which shall be rescinded on any complaint concerning noise or dust during the prohibited hours being registered by a resident. This prohibition does not apply to roadwork by or on behalf of the city, county or state.

(Prior Code, § 14-45)

Secs. 16-226—16-243. Reserved.

ARTICLE VI. OFFENSES INVOLVING PUBLIC MORALS

Sec. 16-244. Prohibiting nudity or obscenities in city.

It shall be unlawful for any person to be guilty of any act, conduct, language or behavior that is reasonably likely to provoke an immediate breach of the peace.

(Prior Code, § 14-38)

Sec. 16-245. Possession, control or sale of controlled substances.

(a) A person commits the offense of possession of a controlled substance if he or she knowingly possesses a controlled substance, except as authorized by RSMo ch. 195.

(b) In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of RSMo ch. 195, it shall not be necessary to include any exception, excuse, proviso, or exemption contained in this chapter or RSMo ch. 195, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

(Prior Code, § 14-44; Ord. No. 1921, § 7, 12-19-2016)

State law reference—Possession or control of a controlled substance—penalty, RSMo 579.015.

Sec. 16-246. Possession of drug paraphernalia.

A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses with intent to use, drug paraphernalia to plant, propagate,

cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of this article or RSMo ch. 195.

(Ord. No. 1921, § 7, 12-19-2016)

State law reference—Possession or control of a controlled substance—penalty, RSMo 579.015.

Secs. 16-247—16-268. Reserved.

ARTICLE VII. OFFENSES INVOLVING GOVERNMENTAL FUNCTIONS

Sec. 16-269. Offense of resisting or interfering with arrest.

(a) A person commits the crime of resisting or interfering with arrest, detention, or stop 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:

- (1) Arrests, stops, or detentions, with or without warrants;
- (2) Arrests, stops, or detentions, for any crime, infraction, or ordinance violation; and
- (3) Arrests for warrants issued by a court or a probation and parole officer.

(c) A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.

(d) 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 in this section shall be construed to bar civil suits for unlawful arrest.

(Prior Code, § 14-41; Ord. No. 1921, § 8, 12-19-2016)

State law references—Resisting or interfering with arrest, RSMo 575.150; interference with legal process, RSMo 575.160.

Sec. 16-270. Offense of making a false report.

- (a) A person commits the offense of making a false report if he or she knowingly:
 - (1) Gives false information to any person for the purpose of implicating another person in an offense; or
 - (2) Makes a false report to a law enforcement officer that an offense has occurred or is about to occur; or
 - (3) Makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred or is about to occur.
- (b) It is a defense to a prosecution under subsection (a) of this section that the person retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.
- (c) The defendant shall have the burden of injecting the issue of retraction under subsection (b) of this section.

(Prior Code, § 14-41-1; Ord. No. 858, 5-1994; Ord. No. 1921, § 8, 12-19-2016)

State law reference—False reports, RSMo 575.080.

Sec. 16-271. Interference with legal process.

- (a) A person commits the offense of interference with legal process if, knowing another person is authorized by law to serve process, he or she interferes with or obstructs such person for the purpose of preventing such person from effecting the service of any process.
- (b) *Process* includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

(Ord. No. 1921, § 8, 12-19-2016)

Editor's note—Ord. No. 1921, § 8, adopted December 19, 2016, repealed former § 16-271, and enacted a new § 16-271 as set out herein. Former § 16-271 pertained to failure to appear in municipal court, and derived from Prior Code, § 1-14.

State law reference—False reports, RSMo 575.080.

Secs. 16-272—16-290. Reserved.**ARTICLE VIII. OFFENSES INVOLVING UNDERAGE PERSONS****Sec. 16-291. Curfew.**

- (a) *Curfew hours generally.* It shall be unlawful for any minor under the age of 17 years, to remain on the public streets, sidewalks or other public property of the city during the hours of 11:00 p.m. until 6:00 a.m. the following day, Sunday through Thursday and 12:30 a.m. to 6:00 a.m. on Saturday and Sunday.

(b) *Curfew hours on motor vehicles.* It shall be unlawful for any minor under the age of 17 years to operate or occupy any motor vehicle operated upon the streets of the city during the hours of 11:00 p.m. until 6:00 a.m. the following day, Sunday through Thursday and 12:30 a.m. to 6:00 a.m. Saturday and Sunday.

(c) *Exceptions.* It is a defense to prosecution under subsections (a) and (b) of this section that the minor was:

- (1) Accompanied by minor's parent or guardian or an adult designated by the person's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian or an adult designated by the person's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency. In this subsection, the term "emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life;
- (6) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by township, a civic organization, or another similar entity that takes responsibility for the person, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the township, a civic organization, or another similar entity that takes responsibility for the person;
- (7) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;
- (8) Married or had been married or had disabilities of minority removed in accordance with law.

(Prior Code, §§ 14-1—14-3; Ord. No. 784, 12-1992)

Sec. 16-292. Purchase or possession of tobacco products by persons under 18 years of age.

No person less than 18 years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment, or an employee of the state division of liquor control for enforcement purposes pursuant to RSMo 407.934(5). Any person less than 18 years of age shall not misrepresent his age to purchase cigarettes or tobacco products.

(Prior Code, § 14-46; Ord. No. 1234, 4-2003)

Secs. 16-293—16-319. Reserved.**ARTICLE IX. SPECIAL EVENTS****DIVISION 1. GENERALLY****Sec. 16-320. 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:

Special event means any event involving the extraordinary use of public property, such property including without limitation, the public right-of-way, public parks, public buildings or other city facilities; or events or act on public or private property. The term "extraordinary use" includes amplified sound, closing of streets electrical or plumbing hookups to city utility connections, fireworks, firearm salutes by military guards, the use of off-premises vendors, and noise generating events that continue past 11:00 p.m.

Sponsor means to conduct, stage, present or organized a special event. A sponsor under this definition, must be in charge of the special event, or have primary control of its conduct, staging, presentation or organizing.

(Prior Code, § 11-50)

Sec. 16-321. Exempt events.

Any event sponsored by the city as well as any emergency services program, military exercise simulation, or training drill, or any governmental agency acting within the scope of its functions, shall be exempt from complying with the requirements of this article.

(Prior Code, § 11-61; Ord. No. 1293, 4-2004)

Sec. 16-322. Responsibility for expenses.

The special event sponsors, and any other individuals or organizations named in the permit, shall be responsible for any expenses incurred by the city as a result of the sponsored special event for stolen or damaged city property, cost of materials and utilities for the event by the city, including but not limited to, water, sewer, electric, and solid waste disposal, and for city employee overtime wages for the event. Any permit or consent issued by the parks and recreation superintendent for the use of any park or community center facility shall be considered a special event permit for the purposes of this section.

(Prior Code, § 11-58)

Sec. 16-323. Period of operation and duration.

A special event shall take place only between the hours of 8:00 a.m. and 11:00 p.m., Sunday through Thursday, and 8:00 a.m. and 12:00 midnight, Friday and Saturday; and shall not operate for a duration greater than ten days in length, unless these days and times are otherwise extended by the development department for good cause.

(Prior Code, § 11-59)

Sec. 16-324. Duty to restore event location.

Special event sponsors shall be responsible for the cleaning and restoration of the location or locations the event occupies and/or causes debris or litter within 48 hours of the conclusion of the event, or at such other time as may be set forth in the permit, to the condition which existed prior to the event and shall provide waste disposal receptacles and toilet facilities for use of those attending the event.

(Prior Code, § 11-60)

Sec. 16-325. Requirements for permit for beer and wine sales at special events.

The city may authorize a permit to an organization that wishes to sell or distribute fermented malt beverages or wine at a special event according to the following conditions:

- (1) The applicant needs to obtain the appropriate permit from the state department of liquor control.

- (2) The applicant shall obtain a special event permit from the development department and resubmit the application in a timely enough manner that provides to the city council reasonable time to hold a public hearing, if necessary, to consider the request.
- (3) The person whose name is on the application shall be present at the special event throughout the special event.
- (4) A designated, fenced area shall be provided with one entrance and one exit. The applicant shall man the facility with adult security personnel who will be responsible for verifying, with proper identification, patron's legal drinking age.
- (5) No person who is under or appears to be under the influence of alcohol consumption shall be sold or provided with additional beer or wine.
- (6) The organizer of the event shall provide enhanced security (auxiliary police, contracted security, or of like-kind personnel) at the expense of the organizer during the event. The application shall identify security personnel when it is submitted for review.
- (7) Beer or wine shall not be distributed or sold after 10:30 p.m. Upon closure of the event, no alcohol shall be left on the premises.
- (8) The designated area, along with all distribution equipment used for the sale and distribution of beer or wine shall be removed from the facility by 12:00 p.m. the day following the event.
- (9) All organizations selling or distributing beer and wine shall follow these rules at all times. Failure to adhere to these rules may result in the denial of any future request for a special event permit.
- (10) Requests seeking to sell or distribute alcohol on city-owned property or multi-day events must obtain authorization from city council.

(Prior Code, § 11-62; Ord. No. 1340, 3-2005; Ord. No. 1873, 8-17-2015)

Sec. 16-326. Procedure for moving a structure.

- (a) Anyone wishing to move a structure shall submit a plan that sets forth the following:
 - (1) A plot plan showing the proposed location of the structure or building with its certified legal description;
 - (2) The structure components of the foundation, beams, and piers, upon which the structure or building will rest;
 - (3) An itemized description and cost estimate of the work which will be necessary to meet provisions of the building code;
 - (4) The manner in which the outside of the building or structure will be painted and otherwise brought into a state of good repair;
 - (5) A schedule setting forth the time that each phase of the work will commence and the time for its completion; and

- (6) Proof that applicant has liquid assets or loan commitments sufficient to complete the project set forth in the plan, within the schedule set forth therein.
 - (b) Request an inspection of the structure to be moved and the area of relocation. This inspection is necessary to determine if the structure can be moved, and if it meets the regulations of the building codes. If the structure does not meet code, then certain changes and/or additions must be agreed upon to be completed in order to move the structure.
 - (c) After the plan has been submitted and the structure inspected, the chief building inspector will review and approve the plan, if he finds:
 - (1) That the structure or building will comply with chapter 36, article V, building code; and
 - (2) That the proof of financial capability or other financial assurances demonstrates that applicant has liquid assets or loan commitments sufficient to complete the project set forth in the plan, within the schedule set forth therein.
 - (d) After receiving approval of moving, the following shall be done before a moving permit can be issued:
 - (1) Cutoff and remove all existing utilities. Cap or terminate utility lines as per city utilities.
 - (2) A sewer plug/septic tank crush permit will have to be issued to a certified plumber.
 - (e) The moving permit will then be issued:
 - (1) Only after a foundation and repair inspection has been issued.
 - (2) Only to a licensed, bonded, and insured house mover who, when applying for a moving permit and has a current business license, if applicable, and current "cab card" issued from the state, and states in writing the:
 - a. Location of existing structure.
 - b. New location of structure.
 - c. Length, width, and height of structure after loaded on truck.
 - (3) Only after a route approval from the public works director has been obtained.
 - (4) Only after confirmation from the city utilities that all utilities to the structure have been disconnected.
 - (5) Only after the building or structure has been loaded and attached to the vehicle which will transport it to its new location, the chief building official or his designee shall inspect the same.
 - (f) Permits require:
 - (1) Single-family building, which shall address all applicable utility hookups.
 - (2) Other, if necessary, to be discussed at time of moving permit.

- (g) Plans required for commercial buildings:
 - (1) Plot plan to scale of new location.
 - (2) Legal description certified.
 - (3) A complete set of plans by a registered architect or engineer is required if the structure is to be used for anything other than a one- or two-family residence, which is to include footing/foundation wall showing pier placement and sizes.
- (h) Regulations for moving structures:
 - (1) No structure over 1,600 square feet in area can be moved without approval from the city administrator.
 - (2) No structure exceeding 20 feet in height after loaded on a truck can be moved without special written approval from the director of building development services and the director of public works. The 20 feet is measured from the ground to the top of structure.
 - (3) Work involved in moving a structure must begin within five days from issuance of a moving permit pursued diligently and continuously until structure is relocated. A delay of 14 days with no substantial work may be cause to declare the structure dangerous.
 - (4) Once the structure is relocated, all work to meet the building, plumbing, electrical, and mechanical codes shall be completed as per approved schedule.
 - (5) No structure after being relocated shall be occupied, used, sold, leased or rented until such structure meets all regulations of building, plumbing, electrical, and mechanical codes.
 - (6) No permanent utilities shall be connected until structure meets all codes.
 - (7) Nothing can be done to the structure to cause it to become dangerous to the public preparing it for the move or during moving.

(Prior Code, § 11-63; Ord. No. 1402, 4-2006)

Secs. 16-327—16-355. Reserved.

DIVISION 2. PERMIT

Sec. 16-356. Required.

It shall be unlawful for any person to sponsor or knowingly participate in any special event without a special event permit issued by the development department to the special event sponsor.

(Prior Code, § 11-52)

Sec. 16-357. Application.

- (a) The application form for a special event permit shall be available in the development department. Applications requesting a special event permit shall be filed with the development department at least ten business days prior to the proposed start date of the special event, unless the ten business day time period is waived by the city administrator for good cause. No fee for the permit application will be required for the special event permit.
- (b) The application for an event permit shall include:
- (1) The name, address and telephone and facsimile number of the applicant, and for any persons acting as sponsors of the special event who will be responsible for its conduct, staging, presentation or organizing. If the applicant is a company, corporation or civic organization, then the name of the company, corporation or civic organization, and names and addresses of its directors and officers shall also be included.
 - (2) The purpose or description of the special event, the estimated number of participants or those attending, and a plan or description for the use of any off-premises advertising or off-premises vendors for the event.
 - (3) The date or dates the special event is to be held, and the time it is to commence and terminate, including set-up and shutdown times.
 - (4) The location of the special event, including a drawing or plan showing the entire location to be utilized by the event in relation to existing building locations within the tract or lot, drive areas, layout of parking areas, and the amount of space available for off-street parking.
 - (5) The specific street or streets, or portions thereof, to be closed, if any, for the special event.
 - (6) Whether alcoholic beverages will be allowed, provided or sold by vendors during the special event, and the plan or description for such allowance or provision for the purpose of assessing police, fire, health and finance department responses.
 - (7) A plan or description for the use of lighting, music, loudspeakers, a live band, or sound system, if any, during the special event, and the type and location of speakers and other audio and lighting equipment.
 - (8) The name and address of the security company, if any, engaged for the special event, and a description of the duties to be performed. The city police department shall not provide the private security services for a special event.
 - (9) A plan or description for fire protection for the special event, including a map specifying the location of 18-foot fire lanes, water supply for fire control and the use of tents.
 - (10) A plan or description for emergency medical services for the special event.

- (11) A plan or description for compliance with applicable health codes of the county health department.
- (12) A plan or description for the use or allowance of animals during or as a part of the special event.
- (13) A plan for the disposal of sanitary waste and sewage for the special event, including toilet facilities, and the disposal of garbage, trash, and refuse.
- (14) Compliance with this Code relating to merchant licenses for the special event.
- (15) For events to be located upon or require the closing or blocking of any street, alley, or road, or the use of any city-owned property or right-of-way areas, submission of a liability insurance policy in the amount of \$1,000,000.00 for any injury to any person, including death, arising out of one incident; \$1,000,000.00 for any damage to property; and \$1,000,000.00 automobile liability insurance for any injury to any person, including death, arising out of one incident. The city shall be an additional named insured for each of the above-referenced policies, and the special event sponsor shall execute a hold harmless agreement indemnifying the city.
- (16) Any additional information which the development department shall find reasonably necessary for a fair determination as to whether a permit should be issued.

(Prior Code, § 11-53; Ord. No. 1960, § I, 10-23-2017)

Sec. 16-358. Issuance of permit by development department.

- (a) Special event permits shall be granted or denied by the development department and shall contain terms and conditions as may be deemed necessary to ensure a neat, safe and orderly event in accordance with the terms of this section. Such terms may include specific locations to which possession and consumption of alcoholic beverages will be confined, and regulations concerning prohibited noises.
- (b) Special event permits are not transferable, and shall expire at the close of the last date of the event for which it has been issued. Failure of the sponsors of the event to comply with the terms and conditions of a special event permit and with the applicable ordinances of the city and laws of the state shall immediately void the permit.
- (c) Standards for issuance. The development department shall issue a special event permit as provided for hereunder when, from a consideration of the application, upon the approval of the applicable city department, including, without limitation, police and finance, the city fire protection district, and the county health department, and from such other information as may otherwise be obtained, they find that:
 - (1) The conduct of the special event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location unless approved by the chief of police.

- (2) The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the event and the areas contiguous thereto as to prevent police protection to the city unless approved by the chief of police.
- (3) The concentration of persons, animals and vehicles at the location of the special event will not unduly interfere with proper fire and police protection or ambulance and emergency medical services to the area of the special event and the areas contiguous thereto unless approved by the police chief and the city fire protection district chief.
- (4) The conduct of such special event will not interfere with the movement of firefighting equipment en route to a fire unless approved by the city fire protection district chief.

- (5) The conduct of the special event, as provided for by the submitted application and plans, is not reasonably likely to cause or create any significant public health risks unless approved by the county health department.
- (6) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance beyond the capacity of the police department to protect the general public or those participating in the special event.
- (7) Verification that the information contained in the permit application by the event sponsor is true and does not omit any material detail for the consideration of the above factors, and verification that the event sponsors do not have any outstanding or unpaid fees, taxes, fines, or monies owed to the city unless approved by the finance director.
- (8) For not-for-profit corporations, a copy of the Internal Revenue Service or state department of revenue tax-exempt certificate.

(Prior Code, § 11-54)

Sec. 16-359. Notice of denial of permit; appeal procedure.

- (a) The development department shall act upon the application for special event permit within five business days after the date filed. If the development department disapproves the application, they shall mail the applicant, within five business days after the date upon which the application was filed, a notice of the action, and stating the reasons for the denial of the permit.
- (b) Any disapproval of a special event application must first be reviewed by the city administrator.
- (c) Any person aggrieved by the decision of the development department shall have the right to appeal the denial of a special event permit to the city council. The appeal shall be filed with the city clerk no later than 30 days after the date of the notice issued by the development department. The city council shall hear the appeal of the applicant as an agenda item at the next regularly scheduled city council meeting after its receipt by the city clerk.

(Prior Code, § 11-55)

Sec. 16-360. Alternative permit.

The development department, in denying an application for a special event permit, may issue an alternative special event permit for the conduct of the event on a date, at a time, at a place or in a manner different from that named by the applicant. Any applicant desiring to accept an alternate permit shall, within five business days after notice of the action of the development department, file a written notice of acceptance with the development department. An alternative special event permit shall conform to the requirements of and shall have the effect of a special event permit under this article.

(Prior Code, § 11-56)

Sec. 16-361. Modification or rescission of special event permit.

- (a) The development department may modify or rescind any special event permit for good cause, including, but not limited to:
- (1) A determination that any representation or statements by the event sponsor contained in the event permit application are false or misleading in any material detail.
 - (2) A determination of noncompliance by the event sponsor of any terms or conditions of the permit.
 - (3) A determination that the event as applied for and described upon the submitted plans may pose an immediate threat to public health, welfare or safety due to reasons including, but not limited to weather conditions, overcrowding, traffic considerations, or violations of this Code or the laws of the state by the event sponsor.
 - (4) A determination that the event sponsor is in violation of any ordinance of this Code.

(b) The appeal from the decision to modify or rescind a special event permit by the development department shall proceed in accordance with section 16-359 relating to the issuance of notifications, times and procedures to be followed.

(Prior Code, § 11-57)

Secs. 16-362—16-380. Reserved.**ARTICLE X. ADULT BUSINESSES*****DIVISION 1. GENERALLY****Sec. 16-381. Definitions.**

The following definitions shall apply to this article:

Adult business.

- (1) The term "adult business" means any business enterprise where 15 percent or more of the gross floor space is devoted to; or 15 percent or more of the retail floor space is devoted to; or ten percent or more of the sales of the business are derived from:
 - a. The sale, display or rental of goods that are designed for use in connection with specified sexual activities or that emphasize matters depicting or relating to specified sexual activities or specified anatomical areas; or
 - b. That has one of the following business purposes:
 1. The providing of entertainment where performances are live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or

***State law references**—Sexually oriented businesses, RSMo 573.525 et seq.; more stringent local regulations authorized, RSMo 573.540.

2. The providing of nonmedical services related to specified sexual activities or specified anatomical areas.
- (2) The definition of the term "adult business" also includes, but is not limited to, any and all of the following, as defined herein:
- a. Any of the following businesses offering goods for sale or rent:

Adult bookstore means an establishment which offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films, videotapes or any form of visual representation which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult news rack means any coin or card operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult newsstand means a freestanding structure, vehicle or booth which offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult outlet media means an establishment that has rental, sale or offers for viewing off the premises or other use of any adult media.

Adult retail establishment means an establishment which offers for sale or rent, any one or more of the following: instruments, devices, gifts, or paraphernalia which are designed for use in connection with specified sexual activities or clothing that graphically depicts specified anatomical areas or any of the materials sold or rented in an adult bookstore defined herein.

- b. Any of the following businesses providing entertainment:

Adult arcade means an establishment or that part of an establishment, which regularly features or otherwise offers to customers, in a viewing area which is designed for occupancy by no more than one person, any live, filmed or videotaped exhibition, performance or dance of any type by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear in such attire, costume or clothing so as to expose to view specified anatomical areas.

Adult encounter parlor studio means an establishment in which the business is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.

Adult entertainment business means any enterprise providing adult entertainment to which the public, patrons or members are invited or admitted.

Adult entertainment cabaret means an establishment in which the business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers, or live performances; or material which is characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult entertainment studio (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) means an establishment whose premises is physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and in which the business is providing entertainment which features materials or live performances characterized by an emphasis on or relating to specified sexual activities or the exhibition of specified anatomical areas.

Adult motion picture theater means an establishment containing a room with seats facing a screen or projection areas, where the business is the exhibition to customers of films, videotapes, slides or motion pictures which are intended to provided 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.

Adult theater means an establishment located in an enclosed building where the business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas or live performers, for observation by customers and patrons.

Body painting studio means an establishment in which the business 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 displayed for the customers' view of specified anatomical areas.

Nude modeling agency means an establishment in the business of offering for compensation the viewing of the human body when the subject's body is displayed for the customers' view of specified anatomical areas.

- c. Any of the following businesses that provide services:

Adult motel means an enterprise in which the business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities of specified anatomical areas, or rents or sub-rents room accommodations for less than six hours at a time.

Bath house means an enterprise in which the business is offering baths with other persons present who are nude or displaying specified anatomical areas.

Adult entertainment means any live exhibition, performance or dance characterized by the exposure of any specified anatomical area even if covered by translucent clothing, or by specified sexual activities, or by appearance of persons in attire, costume or clothing so as to emphasize or expose, even through opaque clothing, the view to specified anatomical areas.

Customer means any person who:

- (1) Is allowed to enter an adult business in return for the payment of an admission fee or any other form of consideration or gratuity;
- (2) Enters an adult business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
- (3) Is a member of or is on the premises of an adult business operating as a private club.

Distribute means to transfer possessions of in person, by mail, by agent or by any other means whether with or without consideration.

Employee means any and all persons, including managers, entertainers and independent contractors, who work in or at, or render any services whatsoever, directly related to the operation of an adult business.

Entertainer means any person who provides adult entertainment within an adult 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 any activity involving adult entertainment occurring at any adult business.

Minor means any unmarried person who is less than 18 years of age.

Operator means any person owning, operating, conducting or maintaining an adult business.

Public place means any areas generally visible to public view including 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 business.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola; or any combination of the foregoing; or (human male genitals in a discernibly erect state, even if completely and opaquely covered).

Specified sexual activities means actual or simulated acts of masturbation, sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of actual or apparent stimulation or gratification, any actual

or simulated acts of sadomasochistic abuse, or the use of animals or inanimate objects in acts of actual or apparent sexual stimulation or gratification, as such terms are defined in the pornography and related offenses chapter of the state criminal code.

(Prior Code, § 14-51; Ord. No. 1085, 5-1999)

Sec. 16-382. Exceptions.

- (a) Nothing contained in sections 16-381 through 16-393 shall be construed to apply to:
 - (1) The purchase, distribution, exhibition, or loan of any material by any library, school, or accredited institution of higher learning.
 - (2) The purchase, distribution, exhibition, or loan of any work of art by any museum of fine arts, school or accredited institution of higher learning.
- (b) Nothing contained in section 16-394 shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, accredited institution of higher learning or other similar establishment which is devoted to such exhibitions, presentations, show or performances as a form of expression of opinion, communication speech, ideas, information, drama or art, as differentiated from commercial or business advertising, promotion or exploitation of nudity or obscene live conduct or the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial business or business enterprise, such as a hotel, motel, bar, nightclub, tavern or dance hall.
- (c) This section is not to be construed to interfere with film or publications concerning historical or medical science.

(Prior Code, § 14-69; Ord. No. 1085, 5-1999)

Sec. 16-383. Unlawful erotic activities.

- (a) It shall be unlawful for any entertainer or employee to fondle, caress, or touch any customer or other entertainer or employee in any manner in or on a specified anatomical areas or for any customer to fondle, caress, or touch any entertainer or employee or other customer in any manner in or on a specified anatomical area whether such specified anatomical areas are clothed, unclothed, covered or exposed.
- (b) It shall be unlawful for any entertainer to perform at a distance of less than ten feet from customers or to touch any customer while performing.
- (c) It shall be unlawful for any entertainer to perform on a stage that is not raised at least two feet above the areas where the customer or customers sit or stand.
- (d) It shall be unlawful for any customer to tip, pay, give a gratuity or other thing of value to any entertainer or to someone else on his behalf, and it shall be unlawful for any entertainer to solicit or accept from a customer in any manner any tip, payment, gratuity or other thing of value either directly or indirectly.

(e) It shall be unlawful for an entertainer or employee to perform any specified sexual activities as defined herein, wear, or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices, animals or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.

(f) It shall be unlawful for an entertainer or employee to be visible from the exterior of the adult business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.

(g) It shall be unlawful to operate an adult business in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

(Prior Code, § 14-52; Ord. No. 1085, 5-1999)

Sec. 16-384. Location of adult business.

(a) No adult business shall be located or situated at less distance than 1,500 feet from any property occupied by a public or private school, day care center, church or place of worship, hospital, public park or any property used for residential purposes. This distance shall be measured by a straight line from the nearest point on the property boundary of the tract occupied by the adult business to the nearest point on the property boundary or the tract occupied by one of the aforementioned uses.

(b) No adult business shall be located or situated at less distance than 1,500 feet from another adult business. This distance shall be measured by a straight line from the nearest points on the property boundaries of the tracts occupied by the adult business.

(c) Variances to the location standards of this section shall not be approved by the board of adjustment in accordance with division 3 of article II of chapter 101.

(Prior Code, § 14-56; Ord. No. 1085, 5-1999)

Sec. 16-385. Business records.

Owners and operators of an adult business shall maintain business records that include the names, addresses and ages of all entertainers and employees for a period of two years. Said list or lists shall be made available to the city or city police department upon request at any time.
(Prior Code, § 14-57; Ord. No. 1085, 5-1999)

Sec. 16-386. Manager and entertainer license.

(a) An application for an adult business manager or entertainer license for work at an adult business in the city shall be obtained from the city clerk.

(b) Each such application shall be submitted in the name of the person proposing to be an adult business manager or entertainer and shall be notarized. All applications shall contain the following information:

- (1) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.
- (2) The business name, address and telephone number of the business where the applicant intends to work.
- (3) A statement from the applicant that the applicant has not been convicted of, or released from confinement for conviction of, or diverted from prosecution for:
 - a. A felony criminal act within five years immediately preceding the application; or
 - b. A misdemeanor criminal act within five years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse, pornography or related offenses as defined in the state criminal code or the criminal code of the jurisdiction in which the offense was charged, or involved controlled substances or illegal drugs or narcotic offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application, where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.

- (4) Documentation that the applicant has attained the age of 18 years at the time the application is submitted.
- (5) A statement signed under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provisions of this article.

(c) Upon submission of each such application, the police department shall review the information contained therein and verify the qualifications of the applicant. The city clerk shall then issue the license for the adult business manager or entertainer. Such license shall be issued until December 31 of the year in which such license is issued, or December 31 of the next year if the license is issued after October 1 but prior to January 1. All licenses issued under this article are subject to an application deposit in the amount established by ordinance. The city shall use this deposit to pay for all costs and expenses incurred for the application's processing. The applicant prior to city issuance shall pay costs and expenses not covered by the deposit. The city shall reimburse applicant all remaining portions of deposit not used for the application's examination.

(d) Such license shall not be issued if the applicant has been convicted of, released from confinement for conviction of, or diverted from prosecution on any of the crimes as set forth in subsection (b)(3) of this section.

(Prior Code, § 14-58; Ord. No. 1085, 5-1999)

Sec. 16-387. Manager responsibility.

(a) A licensed adult business manager shall be on duty at any adult business at all times during which the premises is open for business. The name and license number of the manager on duty shall be prominently posted during business hours.

(b) It shall be the responsibility of the manager on duty to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's license issued by the city.

(Prior Code, § 14-59; Ord. No. 1085, 5-1999)

Sec. 16-388. Operational criteria.

(a) No adult business may be open or in use between the hours of 1:30 a.m. and 12:00 p.m.

(b) Only persons 18 years of age or older shall be permitted on the premises of any adult business.

(c) The premises of all adult businesses shall be physically arranged in such a manner that the manager has a specific office area and that an unobstructed view of the entire premises including the entire interior portions of any booths, cubicles, rooms or stalls is maintained from the manager's office area. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. Occupancy of all booths, cubicles, rooms or stalls shall be limited to not more than one person.

(d) All adult businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, of which uppercase letters shall be at least two inches high and lowercase letters at least one inch high which shall read as follows:

"THIS ADULT BUSINESS IS REGULATED AND LICENSED BY THE CITY OF
NIXA, MISSOURI

ENTERTAINERS ARE:

Not permitted to engage in any type of sexual conduct or to fondle, caress, or touch any employee, customer or other entertainer in any manner in or on the genitals, pubic region, buttock or female breasts, or to permit any employee, customer or other entertainer to fondle, caress, or touch in any manner the genitals, pubic region, buttock or female breasts of said entertainer.

Not permitted to solicit or receive from a customer in any manner any tip, payment, gratuity or other thing of value either directly or indirectly.

CUSTOMERS ARE:

Not permitted to fondle, caress, or touch any entertainer, employee or other customer in any manner in or on the genitals, pubic region, buttock or female breasts."

- (e) Separate dressing rooms for men and women shall be maintained on the premises.
(Prior Code, § 14-60; Ord. No. 1085, 5-1999)

Sec. 16-389. Compliance with Code requirements.

Any adult business licensed under this article shall comply with all other requirements of this Code as now or in the future may be adopted.

(Prior Code, § 14-61; Ord. No. 1085, 5-1999)

Sec. 16-390. Distributing obscene material to minors.

It is unlawful for a person knowingly to distribute material related to specified sexual activities or specified anatomical areas to a minor.

(Prior Code, § 14-62; Ord. No. 1085, 5-1999)

Sec. 16-391. Displaying obscene items to minors.

It is unlawful for a person knowingly to permit a minor who is not accompanied by his parent or lawful guardian to enter or remain on an adult entertainment premises where there is visibly displayed any materials related to specified sexual activities or specified anatomical areas.

(Prior Code, § 14-63; Ord. No. 1085, 5-1999)

Sec. 16-392. Exhibiting obscene live conduct to a minor.

It is unlawful for a person knowingly to engage in or participate in, manage, produce, sponsor, present or exhibit obscene live conduct to a minor.

(Prior Code, § 14-64)

Sec. 16-393. Display of explicit sexual materials.**(a) *Display.***

- (1) It is unlawful for a person knowingly to:

- a. Display any explicit sexual material or sadomasochistic abuse at newsstands or any other business establishment frequented by minors under the age of 18 years or where said minors are or may be invited as a part of the general public; or
- b. Permit or authorize the display of any explicit sexual material or sadomasochistic abuse at newsstands or any other business establishments frequented by minors under the age of 18 years or where said minors are or may be invited as a part of the general public; or

(2) When requested by the police department of the city, to fail to promptly remove from display from property in his possession or under his control, any explicit sexual material or sadomasochistic abuse, at newsstands or other business establishments frequented by minors under the age of 18 years or where said minors are or may be invited as a part of the general public.

(b) *Removal.* Where it appears that this article or any part of this article is being or about to be violated, the mayor or city attorney may commence and maintain, in the name of the city, an action in the circuit court to enjoin the display of any explicit sexual material. No provisions of this section shall be construed to prohibit the prosecution for violation of the provisions of this section in the municipal court.

(c) *Penalty.* Any person violating this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$200.00, or be imprisoned in jail for not less than five days, or be punished by both such fine and imprisonment, or be fined not more than \$500.00, or be imprisoned in jail for not more than 60 days, or be so punished by both such fine and imprisonment.

(d) *Restrictions.* Nothing in this article shall be construed so as to prohibit or restrict any political subdivision or any department, agency, office or facility thereof, or any employee or agent thereof when engaged in the performance of his official duties, or any person in the conduct of a legitimate activity for bona fide educational, scientific or medical purposes.

(e) *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:

Explicit sexual materials means:

- (1) Any picture, photograph, or other pictorial representation, that depicts actual or simulated "specified sexual activities"; or
- (2) Any portion of a book, magazine, newspaper or other printed or written material; or any videotape, DVD, or any other recorded medium whose content is made up in whole or in dominant part of depictions or descriptions of "specified sexual activities" or "specified anatomical areas."

(Prior Code, § 14-65; Ord. No. 1085, 5-1999; Ord. No. 1600, 7-2009)

Sec. 16-394. Nude conduct.

It is unlawful for a person knowingly to voluntarily and intentionally appear in public or in a public place or in a place open to the public or open to public view in a state of nudity, or to employ, encourage, or procure another person to so appear.

(Prior Code, § 14-67; Ord. No. 1085, 5-1999)

Sec. 16-395. Obscene live conduct.

It is unlawful for a person to voluntarily and intentionally engage in an act of obscene live conduct in a public place or a place open to the public or open to public view, or to employ, encourage, or procure another person to so appear.

(Prior Code, § 14-68; Ord. No. 1085, 5-1999)

Secs. 16-396—16-418. Reserved.**DIVISION 2. LICENSE****Sec. 16-419. Required.**

(a) It shall be unlawful for any person to operate or maintain an adult business within the city until the owner of such business has applied to the office of the city clerk for a license to operate such business and such license has been duly approved by the city council, or to operate such establishment after such license has been revoked or suspended by the city, or has expired, as set forth in this division.

(b) It shall be unlawful for any adult business to allow a manager to work at or an entertainer to perform on premises within the city until such manager or entertainer has applied to the office of the city clerk for a license and such license has been duly issued by the city clerk, or to work at such business after such license has been revoked or suspended by the city, or has expired, as set forth in this division.

(c) No licensed entertainer shall perform in any adult business that does not have a valid license as required by this division.

(d) Every owner, operator, manager, entertainer or other employee required to be licensed by this article shall post such license in a conspicuous place on the licensed premises so it is readily available for inspection by city authorities responsible for enforcement of this division yet is not viewable from the public areas of the business.

(Prior Code, § 14-53; Ord. No. 1085, 5-1999)

Sec. 16-420. Application; city council consideration; renewal.

(a) An application for a business license for the operation of an adult business in the city shall be obtained from the city clerk.

(b) Each such application shall be submitted in the name of the person proposing to conduct or operate the adult business and shall be notarized. All applications shall contain the following information:

(1) The business name, address and telephone number of the establishment, a description of the adult business to be performed on the premises, and the name of the owner of the premises where the adult business will be located.

- (2) The name, residence address, home telephone number, occupation, dates and place of birth and social security number of the applicant.
- (3) The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation or a limited liability company, the same information for all corporate officers, directors and stockholders, and all limited liability company managers and members.
- (4) The addresses of the applicant, or of all partners, or of all corporate officers and directors, or of all limited liability company managers of members, for the five years immediately prior to the date of the application.
- (5) A description of the adult business or similar business history of the applicant, or of all partners, or of all corporate officers and directors; or of all limited liability company managers and members, whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity of occupation subjected to such action, suspension or revocation.
- (6) A statement of each and every business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors, or of all limited liability company managers and members, for the three years immediately preceding the date of the application.
- (7) A statement from the applicant, or from each partner, or from each corporate officer and director, or from each limited liability company manager and member, that each such person has not been convicted of, released from confinement for conviction, or diverted from prosecution on:
 - a. A felony criminal act within five years immediately preceding the application; or
 - b. A misdemeanor criminal act within five years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse, pornography or related offenses as defined in the state criminal code or the criminal code of the jurisdiction in which the offense was charged or involved controlled substances or illegal drugs or narcotic offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that no applicant, partner or corporate officer or director has been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application, where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.

- (8) If the applicant is a corporation, a current certificate of registration issued by the state secretary of state.

- (9) A statement under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provisions of this article.
- (c) Upon submission of each such application, the police department shall review the information contained therein and verify the qualifications of the applicant. The city council shall, within 45 days, consider the application at a regular session. The applicant shall be present and in person at the meeting when said application is considered by the city council. Failure to appear will be grounds for denial of the application. If the application meets all of the requirements as set forth in this article, the city council may issue a license for operation of the adult business. Such license shall be issued until December 31 of the year in which such license is issued, or December 31 of the next year if the license is issued after October 1. All licenses issued under this article are subject to a fee in the amount established in section 2-151 of this Code and must be renewed annually in the same manner as provided above.
- (d) On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each person working on the premises a health certificate from a duly licensed state physician stating that within 90 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease.

(Prior Code, § 14-54; Ord. No. 1085, 5-1999; Ord. No. 2331, § 8, 10-23-2023)

Sec. 16-421. Transferability, revocation and/or suspension of license.

- (a) Any license issued under this article shall not be transferable, either to any person, persons or other entities.
- (b) Any license issued under this article may be suspended by the city clerk and subject to possible revocation by the city council upon a showing in any municipal or circuit court of probable cause leading to formal charges against the applicant, manager, operator, owner or part owner of the business so licensed, for any misdemeanor or felony offense. The suspension shall be lifted upon dismissal of such charges, acquittal in a court of law, or, in the case of a manager, upon the installation of a new manager.
- (c) Any license issued under this division may be revoked by the city council upon a showing:
- (1) Of violation of the standards of this division.
 - (2) That such license was obtained through false statements in the application for such license or renewal thereof.
 - (3) That the owner or operator, or any partner, or any corporate officer or director, or any other individual holding such a license has become disqualified from having such a license by a conviction as provided in section 16-420 and/or section 16-386 of this article; or

- (4) That the license failed to make a complete disclosure of all information in the application for such license or renewal thereof.

(Prior Code, § 14-55; Ord. No. 1085, 5-1999)

Chapter 17

RESERVED

Chapter 18

PARKS AND RECREATION*

- Sec. 18-1. Closing time for the city-owned property used for parks and recreation purposes.
- Sec. 18-2. Restricted parking in city parks.

***State law reference**—Parks and recreation, RSMo 90.010 et seq.

Sec. 18-1. Closing time for the city-owned property used for parks and recreation purposes.

All city-owned property used for parks and recreation purposes within the city limits shall be open for use for programs or events sponsored or approved by the city, or for which a special event permit has been issued, during the hours of 6:00 a.m. through 11:00 p.m. unless otherwise approved by the city administrator, or the parks director, or other authorized parks department employees. It shall be unlawful for any person to present upon any city-owned property used for parks and recreation purposes when such property is not open for use. Any person violating this ordinance, upon plea of guilty or conviction shall be punished in accordance with section 1-9.

(Prior Code, § 14-50-2; Ord. No. 1550, 9-2008)

Sec. 18-2. Restricted parking in city parks.

No person shall park a vehicle in a park in violation of posted restrictions.

(Prior Code, § 12-52)

Chapter 19

RESERVED

Chapter 20

TRAFFIC AND VEHICLES*

Article I. In General

- Sec. 20-1. Definitions.
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- Sec. 20-3. Persons propelling push carts or riding animals to obey traffic regulations.
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***State law reference**—Traffic and vehicle generally, RSMo chs. 300—307.

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- Sec. 20-177. Manual and specifications for traffic control devices.
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- Sec. 20-390. Riding on motorcycles and motorized bicycles.
- Sec. 20-391. Riding bicycle or motorized bicycle on sidewalks.
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ARTICLE I. IN GENERAL**Sec. 20-1. 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.

All-terrain vehicle means any motorized vehicle manufactured and exclusively for off-highway use, which is 50 inches or less in width, with an unladen dry weight of 600 pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control.

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, railroad stations and public buildings which occupy at least 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.

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 for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Daytime hours mean that time between $\frac{1}{2}$ hour before sunrise and $\frac{1}{2}$ hour before sunset.

Drive, driving, operates or operating means physically driving or operating a motor vehicle.

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 passengers or materials.

Golf cart means a motor vehicle that is designed and manufactured for operating on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

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 curb lines, 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 into conflict.
- (2) Where a highway includes two roadways 30 feet or more apart, then every crossing 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.

Intoxicated condition means a person is under the influence of alcohol, a controlled substance, or drug or any combination thereof.

Jurisdiction means the legal right, authority, or power to make and enforce regulations for the direction or control of vehicles and traffic on a street, alley or highway.

Laned roadway means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Law enforcement officer or arresting officer means any public servant having both the power and duty to make arrests for violations of the laws of this state, federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States, and military police officers conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state.

Motor vehicles means any self-propelled vehicles not exclusively on tracks except farm tractors.

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-wheeled 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.

No passing zones means zones determined from an engineering study and indicated by signs or markings, where overtaking and passing is deemed unsafe, and under this chapter is deemed unlawful.

Nonresident means every person who is not a resident of the city.

Official time standard means 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 mean all signs, signals, markings, and devices not inconsistent with this article placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Owner includes:

- (1) a person who holds the legal title to a vehicle;
- (2) in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or mortgagor shall be deemed the owner.

Park or parking means the standing of a vehicle, whether occupied or not, other 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 city 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 expressed or implied permission from the owner, but not by other persons.

Residence district means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

Residents means and includes all persons who shall have been domiciled within the city for more than one month including corporations that have filed with the state secretary of state an address within the city.

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 direction, 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 curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

Signs means a lettered board, or the like, of metal, plastic, or other materials, regardless of the type of material it is made of, placed in a public place to give notice.

Speed zones means zones determined from an engineering study and indicated with posted prima facie speed numeral signs or markings which designate maximum reasonable speeds, travel in excess of which is unlawful.

Stand or standing means the halting of a vehicle, whether occupied or not, other 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, when required, means complete cessation of movement.

Stop or stopping, when prohibited, means 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 signs 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 use of the public for the purpose of vehicular travel.

Substance abuse traffic offender program means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol or drug related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in RSMo 577.041(7).

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, vehicles and other conveyances, either singly or together while using any street, alley or highway for the purpose 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 said term whenever used herein shall be deemed to refer to the police department of the city.

Truck route means an exclusive, designated route for commercial vehicles, in excess of 12,000 pounds, when traversing in and/or throughout the city's incorporated boundaries.

Vehicle means any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, cotton trailers or motorized wheelchairs operated by handicapped persons.

(Prior Code, § 12-1; Ord. No. 1588, 5-2009; Ord. No. 2010, § I, 8-27-2018; Ord. No. 2118, § 1, 5-11-2020)

State law reference—Similar provisions, RSMo 300.010.

Sec. 20-2. Obedience to police and 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.

(Prior Code, § 12-2-11)

State law reference—Similar provisions, RSMo 300.080.

Sec. 20-3. Persons propelling push carts or riding animals to obey traffic regulations.

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.

(Prior Code, § 12-2-12)

State law reference—Similar provisions, RSMo 300.085.

Sec. 20-4. Use of coasters, roller skates and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so

crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of the city.

(Prior Code, § 12-2-13)

State law reference—Similar provisions, RSMo 300.080.

Sec. 20-5. Public employees to obey traffic regulations.

The provision 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 said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.

(Prior Code, § 12-2-14)

State law reference—Similar provisions, RSMo 300.095.

Sec. 20-6. Authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in 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 provision 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 he 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 said 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 his reckless disregard for the safety of others.

(Prior Code, § 12-2-15)

State law reference—Similar provisions, RSMo 300.100.

Sec. 20-7. 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 an 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.

(Prior Code, § 12-2-16; Ord. No. 1238, 4-2003)

State law reference—Similar provisions, RSMo 300.105.

Sec. 20-8. Unreasonably loud, disturbing and unnecessary noise through the use of a motor vehicle.

The creating of any unreasonably loud, disturbing and unnecessary noise within the city, through the use of motor vehicles is hereby prohibited. Noise of such character, intensity or duration so as to be in disturbance of the public peace and welfare is prohibited.

(Prior Code, § 12-13)

Sec. 20-9. Open containers of alcoholic beverages.

(a) Definitions. Unless the context indicates that a different meaning is intended, as used in this section, the following words or phrases have the following meaning:

Alcoholic beverages includes intoxicating liquor, non-intoxicating beer and any liquid having an alcoholic content, regardless of the percentage alcoholic content by weight or volume irrespective of the manner in which the alcohol was placed in the container, which is capable of being consumed as a beverage by a human being.

Bus is a motor vehicle designed for the transportation of a driver and ten or more passengers.

Person includes a driver or passenger.

Public way means any street, alley, boulevard, parkway or other public thoroughfare.

Recreational motor vehicle is any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purpose of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Such a vehicle may or may not be registered as a commercial vehicle.

(b) Prohibited.

(1) Except as provided in RSMo 311.101, no person shall transport, carry, possess or have, and no driver shall permit the transporting, carrying, possessing or having, of

any alcoholic beverages within the passenger area of any motor vehicle, which is being operated upon a public way, except in the original container and with the seal unbroken.

- (2) This subsection shall not apply to exclusive possession by a passenger in a taxicab or limousine; on a chartered bus or a similar motor vehicle licensed to transport passengers for hire; provided, however, the driver of such vehicle is prohibited from consuming or having any alcoholic beverages within his reach.
- (3) This subsection shall not apply to a recreational vehicle, provided the alcoholic beverage is kept in a container with an airtight lid which is stored in a closed cabinet, refrigerator, or other storage compartment located outside the reach of the driver of the vehicle.
- (c) Any evidence of an alcoholic beverage container in the passenger area of such vehicle and alcoholic consumption by the driver shall be *prima facie* evidence that such driver has disobeyed this section.
- (d) The exemption applicable to chartered buses under subsection (b)(2) of this section does not apply to any vehicle being used for school purposes.
- (e) For purposes of this section, passenger area shall not include any area of the motor vehicle which is inaccessible to the driver or any other person in such vehicle while it is in motion. In the case of a pickup truck, station wagon, hatchback vehicle or other similar vehicle, the area behind the last upright seat shall not be considered accessible to the driver or any other person, provided that no person is occupying, sitting or standing in that area of the vehicle.
- (f) In prosecutions under this section, there is a rebuttable presumption that a container marked or labeled as containing an alcoholic beverage actually contains the described alcoholic beverage. This rebuttal presumption applies only in cases where a sample of the contents of the container has been preserved and is available to the defendant for testing. (Prior Code, §§ 14-25, 14-26; Ord. No. 2123, § 1, 6-8-2020)

State law references—Open wine bottles, RSMo 311.101; consumption of alcohol in moving vehicle, RSMo 577.017.

Secs. 20-10—20-36. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 20-37. Authority of police and fire department officials.

- (a) It shall be the duty of the officers of the police department of such officers as are assigned by the chief of police 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 chief of police 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, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Prior Code, § 12-2-10)

State law reference—Similar provisions, RSMo 300.075.

Sec. 20-38. City traffic engineer.

(a) The director of public works, or their designee shall perform the duties of the city traffic engineer. The city traffic engineer shall exercise the powers and duties provided in this article or other provisions of city code. The terms traffic engineer and city traffic engineer shall have the same meaning when such terms are used throughout this Code.

(b) The city traffic engineer shall have the authority to determine the installation and proper timing and maintenance of traffic control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering investigation 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.

(Ord. No. 2227, § 1, 10-25-2021)

State law reference—Similar provisions, RSMo 300.160.

Sec. 20-39. Emergency and experimental regulations.

(a) The chief of police by and with the approval of the city traffic 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 traffic engineer may test traffic control devices under actual conditions of traffic.

State law reference—Similar provisions, RSMo 300.065.

Secs. 20-40—20-66. Reserved.

DIVISION 2. TRAFFIC DIVISION

Sec. 20-67. Police administration.

There is established in the police department of the city a traffic division to be under the control of an officer of police appointed by and directly responsible to the chief of police.
(Prior Code, § 12-2-2)

State law reference—Similar provisions, RSMo 300.015.

Sec. 20-68. Duty of traffic division.

The traffic division with such aid as may be rendered by other members of the police department 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, to investigate accidents and to cooperate with the city traffic 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 specially imposed upon the division by this article and the traffic ordinances of the city.

(Prior Code, § 12-2-3)

State law reference—Similar provisions, RSMo 300.020.

Sec. 20-69. Records of traffic violations.

(a) The police department or the traffic division thereof 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. Said 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 kept available to the public showing the disposal of all such forms.

(c) All such records and reports shall be public records.

(Prior Code, § 12-2-4)

State law reference—Similar provisions, RSMo 300.025.

Sec. 20-70. Traffic division to investigate accidents.

It shall be the duty of the traffic division, assisted by other 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.

(Prior Code, § 12-2-5)

State law reference—Similar provisions, RSMo 300.030.

Sec. 20-71. Traffic accident studies.

Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures.

(Prior Code, § 12-2-6)

State law reference—Similar provisions, RSMo 300.035.

Sec. 20-72. Traffic accident reports.

The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the city traffic engineer.

(Prior Code, § 12-2-7)

State law reference—Similar provisions, RSMo 300.040.

Sec. 20-73. Driver files to be maintained.

The police department or the traffic division thereof 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.

(Prior Code, § 12-2-8)

State law reference—Similar provisions, RSMo 300.045.

Sec. 20-74. Traffic division to submit 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 date;

(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.

(Prior Code, § 12-2-9)

State law reference—Similar provisions, RSMo 300.050.

Secs. 20-75—20-91. Reserved.

DIVISION 3. ARREST PROCEDURES

Sec. 20-92. Forms and records of traffic citations and arrests.

(a) The municipality shall provide books containing uniform traffic tickets as prescribed by Supreme Court Rule No. 37.46. Said 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 chief of police or his duly authorized agent, a record shall be maintained of every book so issued and a written receipt shall be required for every book. The judge or judges hearing municipal ordinance violation cases may require that a copy of such record and receipts be filed with the court.

(c) The chief of police shall be responsible for the issuance of such books to individual members of the police department. The chief of police 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.

(Prior Code, § 12-2-109)

State law reference—Similar provisions, RSMo 300.575.

Sec. 20-93. Procedure of police officers.

Except when authorized or directed under state law to immediately take a person before the judge of the city court for the violation of any traffic laws, a police officer who halts a person for such violation other than for the purpose of giving him a warning or warning notice and does not take such person into custody under arrest, shall issue to him a uniform traffic ticket which shall be proceeded upon in accordance with Supreme Court Rule No. 37.

(Prior Code, § 12-2-110)

State law reference—Similar provisions, RSMo 300.580.

Sec. 20-94. Uniform traffic ticket to be issued when vehicle illegally parked or stopped.

Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on

the vehicle which may identify its user, and shall conspicuously affix to such vehicle a uniform traffic ticket for the driver to answer to the charge against him within seven days during the hours and at a place specified in the traffic ticket.

(Prior Code, § 12-2-111)

State law reference—Similar provisions, RSMo 300.585.

Sec. 20-95. Warning of arrest sent upon failure to appear.

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a uniform traffic ticket affixed to such motor vehicle within a period of five days, the traffic violations bureau shall send to the owner of the motor vehicle to which the traffic ticket was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five days a warrant of arrest will be issued.

(Prior Code, § 12-2-112)

State law reference—Similar provisions, RSMo 300.590.

Secs. 20-96—20-118. Reserved.

DIVISION 4. TRAFFIC VIOLATIONS BUREAU

Sec. 20-119. When person charged may elect to appear at bureau or before magistrate.

(a) Any person charged with an offense for which payment of a fine may be made to the traffic violations bureau shall have the option of paying such fine within the time specified in the notice of arrest at the traffic violations bureau 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 to the bureau shall be deemed an acknowledgment of conviction of the alleged offense, and the bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof.

(Prior Code, § 12-2-105)

State law reference—Similar provisions, RSMo 300.555.

Sec. 20-120. Duties of traffic violations bureau.

The following duties are hereby imposed upon the traffic violations bureau in reference to traffic offenses:

- (1) It shall accept designated fines, issue receipts, and represent in court such violators as are permitted and desire 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.

(Prior Code, § 12-2-106)

State law reference—Similar provisions, RSMo 300.560.

Sec. 20-121. Traffic violations bureau to keep records.

The traffic violations bureau shall keep records and submit summarized monthly reports to the municipal court 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 traffic violations bureau or the court, and of the final disposition or present status of every case of violation of the provisions of said laws and ordinances. Such records shall be so maintained as to show all types of violations and the totals of each. Said records shall be public records.

(Prior Code, § 12-2-107)

State law reference—Similar provisions, RSMo 300.565.

Sec. 20-122. Additional duties of traffic violations bureau.

The traffic violations bureau shall follow such procedure as may be prescribed by the traffic ordinances of the city or as may be required by any laws of this state.

(Prior Code, § 12-2-108)

State law reference—Similar provisions, RSMo 300.570.

Secs. 20-123—20-142. Reserved.

ARTICLE III. ACCIDENTS

Sec. 20-143. Immediate notice of accident.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or total damage to all property to an apparent extent of \$500.00 or more shall immediately by the quickest means of communication give notice of such accident to the police department if such accident occurs within the city.

(Prior Code, § 12-2-17)

State law reference—Similar provisions, RSMo 300.110.

Sec. 20-144. 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 damage to all property to an apparent extent of \$500.00 or more 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.

(Prior Code, § 12-2-18)

State law reference—Similar provisions, RSMo 300.115.

Sec. 20-145. 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 20-143 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 20-144 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.

(Prior Code, § 12-2-19)

State law reference—Similar provisions, RSMo 300.120.

Secs. 20-146—20-175. Reserved.

ARTICLE IV. TRAFFIC CONTROL SIGNS, SIGNALS, DEVICES AND MARKINGS

Sec. 20-176. Authority to install traffic control devices.

The city traffic 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 said ordinances, and may place and maintain such additional traffic control devices as he may deem necessary to regulate traffic under the traffic ordinances of the city or under state law or to guide or warn traffic.

(Prior Code, § 12-2-21)

State law reference—Similar provisions, RSMo 300.130.

Sec. 20-177. Manual and specifications for traffic control devices.

All traffic control signs, signals and devices shall conform to the manual and specifications approved by the state highway commission or resolution adopted by the legislative body of the city. 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.

(Prior Code, § 12-2-22)

State law reference—Similar provisions, RSMo 300.135.

Sec. 20-178. Obedience to traffic control devices.

(a) 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.

(b) The driving of a motor vehicle onto, across, and out of any commercial property on the corner of any street intersection without stopping on the property for the purpose of transacting business solely to avoid a stop sign or traffic signal is prohibited. For the purpose of this section, the "transacting of business" shall mean that the driver or any occupant of the motor vehicle entered the property with the intent of stopping to engage in a transaction with the proprietors, their agents, or employees of the business for which the premises is licensed. (Prior Code, § 12-2-23; Ord. No. 903, 2-1995)

State law reference—Similar provisions, RSMo 300.140.

Sec. 20-179. When official traffic control devices 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.

(Prior Code, § 12-2-24)

State law reference—Similar provisions, RSMo 300.145.

Sec. 20-180. Official traffic control devices; 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 requirements pertaining to such devices shall be presumed to comply with the requirements of this article, unless the contrary shall be established by competent evidence.

(Prior Code, § 12-2-25)

State law reference—Similar provisions, RSMo 300.150.

Sec. 20-181. Ratification.

All traffic control signs, signals, devices and markings in place on the adoption date of this Code are hereby ratified and shall be considered to have been authorized by the city.

Sec. 20-182. 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 said 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 other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited;
- 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 20-183, 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 20-183, 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;
- b. Unless otherwise directed by a pedestrian control signal as provided in section 20-183, pedestrians facing a steady red signal alone shall not enter the roadway;
- c. 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 a right turn against a red signal is prohibited when a sign is erected at such intersection giving notice thereof.

- (4) 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.

(Prior Code, § 12-2-26)

State law reference—Similar provisions, RSMo 300.155.

Sec. 20-183. Pedestrian control signals.

Whenever special pedestrian control signals exhibiting the words "Walk" 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 his crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

(Prior Code, § 12-2-27)

State law reference—Similar provisions, RSMo 300.160.

Sec. 20-184. Flashing signals.

(a) 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.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section 20-354.

(Prior Code, § 12-2-28)

State law reference—Similar provisions, RSMo 300.165.

Sec. 20-185. 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.

(Prior Code, § 12-2-29)

State law reference—Similar provisions, RSMo 300.170.

Sec. 20-186. Display of unauthorized signs, signals, markings or devices.

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 or railroad 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 or any railroad sign or signal.

(Prior Code, § 12-2-30)

State law reference—Similar provisions, RSMo 300.175.

Sec. 20-187. Interference with official traffic control devices or railroad 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 or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

(Prior Code, § 12-2-31)

State law reference—Similar provisions, RSMo 300.180.

Sec. 20-188. Authority to establish play streets.

The city traffic engineer shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

(Prior Code, § 12-2-32)

State law reference—Similar provisions, RSMo 300.185.

Sec. 20-189. Play streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having a business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Prior Code, § 12-2-33)

State law reference—Similar provisions, RSMo 300.190.

Sec. 20-190. City traffic engineer to designate crosswalks and establish safety zones.

The city traffic 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 his opinion there is particular danger to pedestrians crossing the roadway, and at such other places, as he may deem necessary.
- (2) To establish safety zones of such kind and character and at such places, as he may deem necessary for the protection of pedestrians.

(Prior Code, § 12-2-34)

State law reference—Similar provisions, RSMo 300.195.

Sec. 20-191. Traffic lanes.

(a) The city traffic 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.

(Prior Code, § 12-2-35)

State law reference—Similar provisions, RSMo 300.200.

Secs. 20-192—20-220. Reserved.**ARTICLE V. GENERAL RULES OF VEHICLE OPERATION****DIVISION 1. GENERALLY****Sec. 20-221. State operator's license required.**

No person shall operate a motor vehicle, golf cart, or motorized bicycle on any public street unless such person shall have a valid operator's or chauffeur's license recognized under the laws of the state or other state.

(Prior Code, § 12-75; Ord. No. 1232, 4-2003; Ord. No. 2010, § I, 8-27-2018)

Sec. 20-222. Driving after suspension or revocation.

No person shall operate a motor vehicle upon any public street without a license after suspension or revocation of a driver's license by the state which issued said license and prior to restoration of operating privileges which have been suspended or revoked.

(Prior Code, § 12-76)

Sec. 20-223. State motor vehicle license required.

(a) No motor vehicle except farm machinery shall be operated on any public street or highway within the city unless it shall have displayed thereon unexpired license plates issued by the director of revenue of the state or other state, and being current.

(b) No motor vehicle or trailer shall be operated upon the streets of the city unless there is properly displayed on the license plate or set of license plates thereof, the annual registration tabs required by the laws of the state.

(Prior Code, § 12-77; Ord. No. 1232, 4-2003)

Sec. 20-224. Permitting vehicle operation by unlicensed person.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be operated upon the streets of the city by any person who is not licensed or otherwise lawfully authorized to operate such vehicle.

(Prior Code, § 12-78; Ord. No. 1232, 4-2003)

State law reference—Operator's licenses, RSMo ch. 302.

Sec. 20-225. Financial responsibility required.

(a) No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys or highways of this city, unless such operator, or the owner of the vehicle, maintains financial responsibility, which covers the operation of that vehicle by such operator.

(b) No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys or highways of this city, unless such operator exhibits proof of financial responsibility upon demand of a police officer, which proof covers the operation of that vehicle by such operator.

(c) For purposes of this section, the term "financial responsibility" shall mean the ability to respond in damages for liability occurring after the effective date of proof of such financial responsibility, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of \$25,000.00 because of bodily injury to or death of one person in any one accident, and subject to said limit for one person, in the amount of \$50,000.00 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one accident.

(d) Proof of financial responsibility may be shown by any of the following:

- (1) An insurance identification card issued by a motor vehicle insurer or by the director of revenue of the state for self-insurance, as provided by RSMo 303.024. A motor vehicle insurance policy, a motor vehicle liability insurance binder, or receipt which contains the name and address of the insurer, the name and address of the named insured, the policy number, the effective dates of the policy and a description by year and make of

the vehicle, or at least five digits of the vehicle identification number or the word "Fleet" if the insurance policy covers five or more motor vehicles, shall be satisfactory evidence of insurance in lieu of an insurance identification card.

- (2) A certificate of the state treasurer of a cash deposit as provided by RSMo 303.240.
- (3) A surety bond filed with the director of revenue of the state, as provided by RSMo 303.230.
- (e) Proof of financial responsibility shall be carried at all times in the insured motor vehicle or by the operator of the motor vehicle if the proof of financial responsibility is effective as to the operator rather than to the vehicle. The operator of the motor vehicle shall exhibit the proof of financial responsibility on the demand of any police officer that lawfully stops such operator while that officer is engaged in the performance of the duties of his office.
- (f) Failure of any person who operates a motor vehicle on the street, alley or highways of this city to exhibit proof of financial responsibility on the demand of any police officer who lawfully stops such person shall be *prima facie* evidence that such person, or that the owner of the vehicle, does not maintain financial responsibility as required by this section. It shall be an absolute affirmative defense to a violation charged under subsection (a) of this section that the operator of a motor vehicle, or the owner of the vehicle, did maintain financial responsibility which covered operation of the vehicle by such operator on the date of the violation. It shall be a mitigating circumstance to a violation charged under subsection (a) of this section that the operator, subsequent to the date of the offense, and prior to a trial or guilty plea, obtained and maintained financial responsibility which covers operation of motor vehicles by such operator.
- (g) Violations of this section are punishable by a fine not to exceed \$300.00. Individuals who can prove that they, in fact, had insurance at the time of the traffic stop, but were unable to show proof of insurance will not be fined nor will they be assessed costs.

(Prior Code, § 14-49; Ord. No. 794, 3-1993)

State law reference—Motor Vehicle Financial Responsibility Law, RSMo ch. 303.

Sec. 20-226. Manner of operation generally.

Every person operating a motor vehicle within the city shall drive said vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life and limb of any person and shall exercise the highest degree of care.

(Prior Code, § 12-10; Ord. No. 1102, 9-1999)

State law reference—Similar provisions, RSMo 304.012.

Sec. 20-226.1. Striking a lawfully stopped, parked or operating vehicle.

The driver of a vehicle shall be guilty of failing to devote sufficient attention to the control of his vehicle if the vehicle collides with any other vehicle that is lawfully stopped, lawfully parked or lawfully proceeding in the same direction of travel in a designated lane of traffic.

(Prior Code, § 12-22; Ord. No. 1592, 6-2009)

Sec. 20-227. Drive on right of highway.

(a) Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;
- (2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of RSMo 304.014 to 304.025 or traffic regulations thereunder or of municipalities;
- (3) When the right half of a roadway is closed to traffic while under construction or repair;
- (4) Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

(b) It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

(c) Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;
- (2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;
- (3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided by law;
- (4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;

(5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

(d) All vehicles in motion upon a highway having two or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

(e) All trucks registered for a gross weight of more than 48,000 pounds shall not be driven in the far left-hand lane upon all interstate highways, freeways, or expressways within urbanized areas of the state having three or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

(1) It is necessary for the operator of the truck to follow traffic control devices that direct use of a lane other than the right lane; or

(2) The right half of a roadway is closed to traffic while under construction or repair.

(f) As used in subsection (e) of this section, the term "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle.

State law reference—Similar provisions, RSMo 304.015(2, 3, 5—8).

Sec. 20-228. Distance at which vehicle must follow.

The driver of a vehicle shall not follow another vehicle more closely than is reasonable safe and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the roadway. Vehicles being driven upon any roadway outside of a business or residence 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 as to enable any other vehicle to overtake or pass such vehicles in safety. This section shall in no manner affect RSMo 304.044 relating to distance between trucks traveling on the highway.

(Prior Code, § 12-15)

State law reference—Similar provisions, RSMo 304.017.

Sec. 20-229. Designated truck route.

No person operating a commercial vehicle, in excess of 12,000 pounds shall travel and/or park in and/or throughout the city's incorporated boundaries, except on the following designated streets:

<i>North/South Streets</i>	<i>East/West Streets</i>
Nicholas	State Highway CC
Gregg Road	Tracker Road
State Highway US 160	Kathryn/Aldersgate
Main Street	Mt. Vernon/State Highway 14
Cheyenne Road	
Eaglecrest	

(Prior Code, § 12-41; Ord. No. 1588, 5-2009; Ord. No. 2118, § 2, 5-11-2020)

Secs. 20-230—20-251. Reserved.

DIVISION 2. SPEED REGULATIONS*

Sec. 20-252. State speed laws applicable.

The state traffic laws regulating the speed of vehicles shall be applicable upon all state streets within the city unless those speed regulations have been modified by ordinance or pursuant to the authority of this chapter.

(Prior Code, § 12-2-36; Ord. No. 2227, § 2, 10-25-2021)

State law reference—Similar provisions, RSMo 304.205.

Sec. 20-253. Regulation of speed by traffic signals.

The city traffic engineer is authorized to regulate the timing of 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.

(Prior Code, § 12-2-37)

State law reference—Similar provisions, RSMo 304.210.

Sec. 20-254. Speed limits within the city.

(a) The city traffic engineer is authorized to establish appropriate speed limits, based on traffic engineering judgment and considerations of public safety, for the streets within the city. The city traffic engineer shall establish said speed limits by filing a schedule of the established speed limits with the city clerk. The city clerk shall maintain this schedule in their office for public inspection. Once established, the city traffic engineer shall post adequate and legible signs giving notice of the established speed.

***State law reference**—Speed limits generally, RSMo 304.010 et seq.

(b) No person shall operate or drive any motor vehicle on any street within the city at a greater speed than 25 miles per hour, unless a different speed has been established for such street.

(Prior Code, § 12-25; Ord. No. 1475, 2-2007; Ord. No. 2227, § 3, 10-25-2021)

Editor's note—Ord. No. 2227, § 3, adopted October 25, 2021, amended the title of § 20-254 to read as herein set out. The former § 20-254 pertained to regulation of maximum limit.

Sec. 20-255. Speed contests and exhibition of speed unlawful.

It shall be unlawful for the driver of any motor vehicle to engage in any speed contest, exhibition of speed or acceleration, or other loud or unusual conduct in the operation of such motor vehicle.

(Prior Code, § 12-14)

Sec. 20-256. Speed limits for construction and school zones.

(a) *Construction speed zones.* The traffic engineer may establish construction speed zones. Construction speed zones shall be effective in lieu of the regular established speed limit during the effective periods established by the traffic engineer, for streets where construction or maintenance operations are in progress. Construction speed zones shall be established by the traffic engineer posting signs along the construction speed zone providing notice of the temporary speed limit. Upon expiration of the temporary speed limit and the removal of signs evidencing the temporary construction speed limit, the speed limit shall return to the regular established limit.

(b) *School speed zones.* The traffic engineer may establish school speed zones for streets contiguous to and not more than 200 feet in either direction from any school property. School speed zones shall be effective in lieu of the regular established speed limit during the effective periods established by the traffic engineer. School speed zones shall be established in the manner set forth herein and subject to the following conditions:

- (1) The traffic engineer may establish school speed zones by filing documentation with the city clerk providing for the establishment of the school speed zone and by placing signs giving notice of the established speed limit for the school speed zone. The speed limit for school speed zones shall be not more than 20 miles per hour.
- (2) The speed limit established for school speed zones shall be effective, in lieu of the regular established speed limit, during the periods specified on signs giving notice of such effective periods, or during the time that active warning flashing beacons are displayed during the periods to which the speed limit pertains. The traffic engineer shall specify the effective times of school speed zones in the documentation on file with the city clerk.

(Prior Code, § 12-34; Ord. No. 1090, 6-1999; Ord. No. 2227, § 4, 10-25-2021)

State law reference—Speed in construction zones, RSMo 304.582 et seq.

Sec. 20-257. Speed regulations - Violations.

- (a) No person shall operate a vehicle on any street in the city in excess of the established speed limit for said street or portion of street.
- (b) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions then existing.
- (c) No person shall unnecessarily drive a vehicle at such a slow speed as to impede normal traffic.
- (d) For purposes of enforcing the speed limit regulations of the city, it is a rebuttable presumption that the posted speed limit, as evidenced by signs or other devices, is the legally established speed limit.

(Ord. No. 2227, § 5, 10-25-2021)

Secs. 20-258—20-275. Reserved.**DIVISION 3. TURNING MOVEMENTS****Sec. 20-276. Required position and method of turning - Right-of-way at intersections and when turning.**

- (a) *Required position and turning methods.* The driver of a vehicle intending to turn 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, except where multiple turn lanes have been established.
 - (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 bypassing 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 direction on 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, except where multiple turn lanes have been established.

- (4) *Designated two-way left turn lanes.* Where a special lane for making left turns by drivers proceeding in opposite directions have been indicated by official traffic control devices:
- a. A left turn shall not be made from any other lane;
 - b. A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a u-turn when otherwise permitted by law;
 - c. A vehicle shall not be driven in the lane for a distance more than 500 feet.
- (b) *Drivers to yield the right-of-way - When.* Drivers of vehicles shall yield as follows:
- (1) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle that has entered the intersection from a different highway, provided, however, there is no form of traffic control at such intersection.
 - (2) When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one such vehicle is attempting to or is making a left turn.
 - (3) The driver of a vehicle within an intersection intending to turn left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.
 - (4) The driver of a vehicle intending to make a left turn into an alley, private road, driveway, or building shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.

(Prior Code, § 12-2-38; Ord. No. 2207, § 1, 6-28-2021)

State law reference—Similar provisions, RSMo 300.215.

Sec. 20-277. Appropriate signaling when turning.

No person shall stop or suddenly decrease the speed of or turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided herein.

- (1) An operator or driver when stopping, or when checking the speed of the operator's vehicle, if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend such operator's arm at an angle below horizontal so that the same may be seen in the rear of the vehicle;
- (2) An operator or driver intending to turn the operator's vehicle to the right shall extend such operator's arm at an angle above horizontal so that the same may be

seen in front of and in the rear of the vehicle, and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which such operator is proceeding before turning;

- (3) An operator or driver intending to turn the operator's vehicle to the left shall extend such operator's arm in a horizontal position so that the same may be seen in the rear of the vehicle, and shall slow down and approach the intersecting highway so that the left side of the vehicle shall be as near as practicable to the centerline of the highway along which the operator is proceeding before turning;
- (4) The signals herein required shall be given either by means of the hand and arm or by a signal light or signal device in good mechanical condition of a type approved by the state highway patrol; however, when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle, then such signals shall be given by such light or device. A vehicle shall be considered as so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds 14 feet, which limit of 14 feet shall apply to single vehicles or combinations of vehicles. The provisions of this division shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signaling device upon the vehicle pulling such trailer; provided further that the provisions of this section as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided shall only be applicable to new vehicles registered within this state after January 1, 1954.

State law reference—Similar provisions, RSMo 304.019.

Sec. 20-278. Authority to place and obedience to turning markers.

(a) The city traffic 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 to 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.

(Prior Code, § 12-2-39)

State law reference—Similar provisions, RSMo 300.220.

Sec. 20-279. Authority to place restricted turn signs.

The city traffic 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

intersection. 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.

(Prior Code, § 12-2-40)

State law reference—Similar provisions, RSMo 300.225.

Sec. 20-280. Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(Prior Code, § 12-2-41)

State law reference—Similar provisions, RSMo 300.230.

Sec. 20-281. 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.

(Prior Code, § 12-2-42)

State law reference—Similar provisions, RSMo 300.235.

Secs. 20-282—20-310. Reserved.

**DIVISION 4. ONE-WAY STREETS AND ALLEYS; RESTRICTED LOCAL TRAFFIC
STREETS AND ALLEYS**

Sec. 20-311. Authority to sign one-way streets and alleys.

Whenever any ordinance of the city designates any one-way street or alley the city traffic 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.

(Prior Code, § 12-2-43)

State law reference—Similar provisions, RSMo 300.240.

Sec. 20-312. One-way streets and alleys.

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.

(Prior Code, § 12-2-44)

State law reference—Similar provisions, RSMo 300.245.

Sec. 20-313. Authority to restrict direction of movement on streets during certain periods.

(a) The city traffic engineer is hereby authorized to determine and designate streets, or parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period 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 traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

(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.

(Prior Code, § 12-2-45-1)

State law reference—Similar provisions, RSMo 300.250.

Secs. 20-314—20-344. Reserved.**DIVISION 5. STOP AND YIELD INTERSECTIONS, RAILROAD CROSSINGS, ETC.****Sec. 20-345. 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.

(Prior Code, § 12-2-45-2)

State law reference—Similar provisions, RSMo 300.255.

Sec. 20-346. 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 traffic engineer to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any 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 said streets as may be determined by the city traffic engineer upon the basis of an engineering and traffic study.

(Prior Code, § 12-2-46)

State law reference—Similar provisions, RSMo 300.260.

Sec. 20-347. Other intersections where stop or yield required.

The city traffic 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 he 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 20-348, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required.

(Prior Code, § 12-2-47)

State law reference—Similar provisions, RSMo 300.265.

Sec. 20-348. 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 road way 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.

(Prior Code, § 12-2-48)

State law reference—Similar provisions, RSMo 300.270.

Sec. 20-349. Vehicle entering stop intersections.

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 20-348(b), and after 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 said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(Prior Code, § 12-2-49)

State law reference—Similar provisions, RSMo 300.275.

Sec. 20-350. 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 his failure to yield right-of-way.

(Prior Code, § 12-2-50)

State law reference—Similar provisions, RSMo 300.280.

Sec. 20-351. Emerging from alley, driveway or building.

The driver of a vehicle 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 said roadway.

(Prior Code, § 12-2-51; Ord. No. 2180, § 1, 3-22-2021)

Sec. 20-352. 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 he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Prior Code, § 12-2-52)

Sec. 20-353. Certain buses and trucks to stop at railroad crossing.

Every motor vehicle transporting passengers, for hire, every school bus, and every motor vehicle transporting high explosives, or poisonous or compressed inflammable gases, and every motor vehicle used for the transportation of inflammable or corrosive liquids in bulk, whether loaded or empty, shall, upon approaching any railroad grade crossing, other than a crossing that is specifically exempted from the stopping requirement by order of the state division of motor carrier and railroad safety of the department of economic development, be brought to a full stop within 50 feet, but not less than 15 feet, from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear, except that such full stop shall not be required at a railroad grade crossing protected

by a watchman or traffic officer on duty or by a traffic control signal (not railroad flashing signal) giving positive indication to approaching vehicles to proceed, nor when the division of motor carrier and railroad safety has ordered the placement of an exempt sign at the crossing.

State law reference—Similar provisions RSMo 304.030.

Sec. 20-354. Obedience to signal indicating approach of train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirement shall apply when:

- (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
- (3) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing;
- (4) Any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop at a railroad grade crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(c) Every commercial motor vehicle as defined in RSMo 302.700, shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said commercial motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear. This section does not apply to vehicles which are required to stop at railroad crossings pursuant to section 20-353.

(Prior Code, § 12-2-53)

State law reference—Similar provisions, RSMo 304.035.

Secs. 20-355—20-381. Reserved.

DIVISION 6. MISCELLANEOUS RULES

Sec. 20-382. Following emergency vehicle prohibited.

The driver of any vehicle other than one on official business shall not follow any emergency vehicle 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.

(Prior Code, § 12-2-54)

State law reference—Similar provisions, RSMo 300.300.

Sec. 20-383. 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.

(Prior Code, § 12-2-55)

State law reference—Similar provisions, RSMo 300.305.

Sec. 20-384. 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 division. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

(Prior Code, § 12-2-56)

State law reference—Similar provisions, RSMo 300.310.

Sec. 20-385. 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.

(Prior Code, § 12-2-57)

State law reference—Similar provisions, RSMo 300.315.

Sec. 20-386. Trucks and commercial vehicles restricted from local streets.

(a) *Prohibited.* It is unlawful to drive any truck or other commercial vehicles having a total empty weight in excess of 12,000 pounds, on any public street within the city, unless the roadway is designated and posted as a truck route.

(b) *Business destination affirmative defense.* It shall be an affirmative defense to violations of subsection (a) of this section that the driver was in the immediate process of delivering or picking up materials or merchandise, for providing services, or for reaching the final business destination. Excluded trucks may leave the truck route only at the point nearest the destination and must return to the truck route by the shortest route. Excluded trucks and or trailers participating in a public and or private construction project may also exit the designated truck route, but they shall be parked off-street during the duration of the construction project. Excluded trucks and or trailers who must leave the designated truck route to obtain access to their licensed place of business or residence where parking of trucks or trailers is restricted solely to the private lot.

(Prior Code, §§ 12-53, 12-54; Ord. No. 1588, 5-2009; Ord. No. 2118, § 3, 5-11-2020)

Sec. 20-387. Vehicle shall not be driven on a sidewalk; prohibition on obstruction of bicycle lanes; drivers to yield to bicycles in designated bicycle lanes.

The driver of a vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway. A designated bicycle lane shall not be obstructed by a parked or standing

motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or to provide for safe travel. In making an otherwise lawful maneuver that requires traveling in or crossing a designated bicycle lane, the driver of a motor vehicle shall yield to any bicycle in the lane. As used in this section, the term "designated bicycle lane" shall mean a portion of the roadway or highway that has been designated by the governing body having jurisdiction over such roadway or highway by striping with signing or striping with pavement markings for the preferential or exclusive use of bicycles.

(Prior Code, § 12-2-59)

State law reference—Similar provisions, RSMo 300.330.

Sec. 20-388. 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.

(Prior Code, § 12-2-60)

State law reference—Similar provisions, RSMo 300.335.

Sec. 20-389. 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.

(Prior Code, § 12-2-61)

State law reference—Similar provisions, RSMo 300.340.

Sec. 20-390. Riding on motorcycles and motorized bicycles.

(a) A person operating a motorcycle 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.

(Prior Code, § 12-2-62)

State law reference—Similar provisions, RSMo 300.345.

Sec. 20-391. Riding bicycle or motorized bicycle on sidewalks.

(a) No person shall ride a bicycle upon a sidewalk within a business district.

(b) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(c) No person shall ride a motorized bicycle upon a sidewalk.

(Prior Code, § 12-2-63)

State law reference—Similar provisions, RSMo 300.347.

Sec. 20-392. All-terrain vehicles.

(a) No person shall operate an all-terrain vehicle, as defined in section 20-1, upon the streets and highways of this city, except as follows:

- (1) All-terrain vehicles owned and operated by a governmental entity for official use;
- (2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation.

(Prior Code, § 12-2-64; Ord. No. 2327, § 1, 8-28-2023)

State law reference—Similar provisions, RSMo 300.348.

Sec. 20-393. Clinging to vehicle.

No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.

(Prior Code, § 12-2-65)

State law reference—Similar provisions, RSMo 300.350.

Sec. 20-394. 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.

(Prior Code, § 12-2-66)

State law reference—Similar provisions, RSMo 300.355.

Sec. 20-395. Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(Prior Code, § 12-2-68)

State law reference—Similar provisions, RSMo 300.365.

Sec. 20-396. Safety belts.

(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. Vehicles may be stopped, inspected or detained solely to determine compliance with this section.

(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 street or highway in this state, and persons less than 18 years of age operating or riding in a truck, as defined in RSMo 301.010, on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway Transportation and Safety Act requirements. The provisions of this section 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.

(c) 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 passenger or passengers occupying a seat location referred to in this subsection is 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.

(d) Except as provided in subsection (b) of this section, any person who violates this section shall, upon conviction, be punished by a fine of not less than \$10.00.

(Prior Code, § 12-39; Ord. No. 1609, 9-2009; Ord. No. 1833, 1-20-2015; Ord. No. 1859, 6-15-2015)

State law reference—Similar provisions RSMo 307.178.

Sec. 20-397. Child restraint systems.

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

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.

Driver means a person who is in actual physical control of a motor vehicle.

(b) 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 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.
 - (c) Any driver who violates subsections (b)(1), (2), or (3) of this section shall be punished by a fine of not more than \$50.00 and court costs. Any driver who violates subsection (b)(4) of this section shall be subject to the penalty in subsection 20-396(e). If a driver receives a citation for violating subsections (b)(1), (2), or (3) of this section, the charges shall be dismissed or withdrawn if the driver, prior to or at his hearing, provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the driver's citation.
 - (d) 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.

(Prior Code, § 12-39; Ord. No. 1609, 9-2009)

State law reference—Similar provisions RSMo 307.179.

Sec. 20-398. Passengers in truck beds.

(a) No person shall operate any truck, as defined in RSMo 301.010, with a licensed gross weight of less than 12,000 pounds when such truck is operated within the corporate limits of this 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 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. Any person who operates a truck with a licensed gross weight of less than 12,000 pounds in violation of this section shall, upon conviction, be punished by fine of not more than \$25.00, plus court costs.

(b) 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 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 section, 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 purpose of this subdivision, the term "family" shall mean persons related within the first degree of consanguinity.

(Prior Code, § 12-40)

State law reference—Similar provisions, RSMo 304.665.

Sec. 20-399. Reserved.

Sec. 20-400. Operation of golf carts on city streets and highways.

(a) Golf carts may be operated on city streets and roadways during daytime hours where the speed limit does not exceed 25 miles per hour, in full compliance with this section, this chapter, and state law. Golf carts may not be operated in excess of 20 miles per hour. In addition, in order to operate any such golf cart, the following requirements must be met and followed:

- (1) Operators of golf carts may cross excluded streets or roadways but otherwise may not operate a golf cart on any excluded street or roadway; however, golf carts may not cross or be operated on any state highway.
- (2) All golf cart operators must abide by all traffic regulations applicable to vehicular traffic on authorized streets and parking areas of the city.
- (3) All golf carts operating pursuant to this section must have a valid special use permit issued by the City of Nixa in accordance with section 20-401.

- (4) All golf carts must be operated in a safe and responsible manner to ensure the safety of its passengers as well as other people, vehicles, and property.
 - (5) All golf cart operators and passengers shall be seated while the golf cart is in motion. All operators and passengers shall be restrained by seat belts or child safety seats.
 - (6) No person shall authorize or knowingly permit any golf cart owned or controlled by him or her to be operated in any manner that violates this section, this chapter, or state law.
 - (7) All golf carts operated in accord with this section shall be insured and such proof of insurance shall specifically list the golf cart by the serial number and year of model. The insurance shall be available upon request. The insurance on the golf cart must comply with the requirements of section 20-225.
 - (b) Golf carts shall constitute vehicles for purposes of sections 16-178, 16-179, and 16-180.
 - (c) Any person who shall violate any of the provisions of this section or section 20-401, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$500.00 in accordance with section 1-9 of these ordinances. Each day the violation exists shall constitute a separate offense.
- (Ord. No. 2010, § I, 8-27-2018)

Sec. 20-401. Golf cart permits.

All golf carts operated on city streets or roadways shall be registered with the city and issued a permit yearly. The city clerk shall prepare an application form for the permit and charge a fee as established in section 2-151 of this Code for each permit. A sticker with identifying numbers shall be attached to the rear of the registered golf cart and be visible for inspection upon request. A permit issued pursuant to this section shall be issued for a single golf cart and is not transferrable to other golf carts.

(Ord. No. 2010, § I, 8-27-2018; Ord. No. 2331, § 9, 10-23-2023)

Secs. 20-402—20-424. Reserved.

ARTICLE VI. PEDESTRIANS' RIGHTS AND DUTIES

Sec. 20-425. Pedestrians subject to traffic control devices.

Pedestrians shall be subject to traffic control signals as are heretofore declared in sections 20-182 and 20-183, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in sections 20-425 and 20-428 through 20-435.

(Prior Code, § 12-2-69)

State law reference—Similar provisions, RSMo 300.370.

Sec. 20-426. Overtaking vehicle parked at crosswalk prohibited.

Whenever any vehicle is stopped at marked crosswalk or at any other crossing of the roadway to permit a pedestrian to cross such roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(Prior Code, § 12-62)

Sec. 20-427. Following directions of crossing guards.

It shall be unlawful for any pedestrian or motor vehicle operator to fail to follow directions given by a crossing guard as defined by this article at a designated crosswalk where school children cross the streets of the city.

(Prior Code, § 12-63)

Sec. 20-428. Pedestrians' right-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 it is impossible for the driver to yield.

(c) Subsection (a) of this section shall not apply under the conditions stated in section 20-431(b).

(d) 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.

(Prior Code, § 12-2-70)

State law reference—Similar provisions, RSMo 300.375.

Sec. 20-429. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Prior Code, § 12-2-71)

State law reference—Similar provisions, RSMo 300.380.

Sec. 20-430. Crossing at right angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

(Prior Code, § 12-2-72)

State law reference—Similar provisions, RSMo 300.385.

Sec. 20-431. 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 20-432 when pedestrians are prohibited from crossing at certain designated places.
(Prior Code, § 12-2-73)

State law reference—Similar provisions, RSMo 300.390.

Sec. 20-432. Prohibited crossing.

(a) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except on 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.

(Prior Code, § 12-2-74)

State law reference—Similar provisions, RSMo 300.395.

Sec. 20-433. Obedience of pedestrians to bridge and railroad signals.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(Prior Code, § 12-2-75)

State law reference—Similar provisions, RSMo 300.400.

Sec. 20-434. 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.

(Prior Code, § 12-2-76)

State law reference—Similar provisions, RSMo 300.405.

Sec. 20-435. Drivers to exercise highest degree of care.

Notwithstanding the provisions of this article, 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.

(Prior Code, § 12-2-77)

State law reference—Similar provisions, RSMo 300.410.

Secs. 20-436—20-453. Reserved.**ARTICLE VII. STOPPING, STANDING AND PARKING****DIVISION 1. GENERALLY****Sec. 20-454. Manner of parking.**

Except where angle parking is permitted, every vehicle stopped or parked upon a roadway, within the corporate limits of the city shall be so stopped or parked with the right-hand wheels of such vehicle parallel with and within 18 inches of the right-hand curb, and in case of no curb, the right-hand parallel edge of the shoulder, and headed in the directional movement of traffic. (Prior Code, § 12-46)

State law reference—Similar provisions, RSMo 300.415.

Sec. 20-455. Signs or markings indicating angle parking.

(a) The city traffic engineer shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any federal-aid or state highway within the city unless the state highway 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.

(Prior Code, § 12-2-78)

State law reference—Similar provisions, RSMo 300.420.

Sec. 20-456. Obedience to angle parking signs or markers.

On those streets which have been signed or marked by the city traffic 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.

(Prior Code, § 12-2-79)

State law reference—Similar provisions, RSMo 300.425.

Sec. 20-457. 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 attended 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 said lamp or 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.

(Prior Code, § 12-2-81)

State law reference—Similar provisions, RSMo 300.435.

Sec. 20-458. Parking for more than 24 hours.

No vehicle shall be parked on any of the streets or other thoroughfares in the city continuously for a period of more than twenty four (24) hours.

(Prior Code, § 12-47; Ord. No. 1849, 3-16-2015)

Sec. 20-459. Permits for loading or unloading at an angle to the curb.

(a) The city traffic 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.

(Prior Code, § 12-2-80)

State law reference—Similar provisions, RSMo 300.430.

Sec. 20-460. Reserved parking spaces for physically disabled.

(a) The city or any person or corporation in lawful possession of a public off-street 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.

(b) Any person who parks in a space reserved for physically disabled persons and is not displaying distinguishing license plates or a card is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$300.00.

(c) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.

(Prior Code, § 12-50; Ord. No. 1028, 10-1997)

Secs. 20-461—20-488. Reserved.

DIVISION 2. PROHIBITIONS FOR SPECIFIED PLACES

Sec. 20-489. 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. On any railroad tracks;
 - i. At any place where official signs prohibit stopping;
 - j. In front of or within ten feet in either direction of a fixed mail box as to prohibit the delivery of mail by any representative from the United States Postal Service. This will be in effect 6:00 a.m. through 6:00 p.m. Monday through Saturday, excluding Sunday and Holidays.

- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or 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 said entrance (when properly signposted);
 - f. At any place where official signs prohibit standing.
- (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:
 - a. Within 50 feet of the nearest rail of a railroad crossing;
 - b. At any place where official signs prohibit parking.
- (4) Move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(b) The driver of any vehicle shall obey all signage prohibiting the blockage of any driveway, curb cut, or street intersection where posted. Failure to obey this subsection shall be punishable by a fine of \$50.00.

(Prior Code, § 12-2-82; Ord. No. 1215, 2-2003)

State law reference—Similar provisions, RSMo 300.440.

Sec. 20-490. 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 ten feet of the width of the roadway for free movement of vehicular traffic.

(Prior Code, § 12-2-83)

State law reference—Similar provisions, RSMo 300.445.

Sec. 20-491. 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 ten 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.

(Prior Code, § 12-2-84)

State law reference—Similar provisions, RSMo 300.450.

Sec. 20-492. 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) Repair such vehicle except repairs necessitated by an emergency.

(Prior Code, § 12-2-85)

State law reference—Similar provisions, RSMo 300.455.

Sec. 20-493. Parking adjacent to schools.

(a) The city traffic 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 his 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.

(Prior Code, § 12-2-86)

State law reference—Similar provisions, RSMo 300.460.

Sec. 20-494. Parking prohibited on narrow streets.

(a) The city traffic 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.

(Prior Code, § 12-2-87)

State law reference—Similar provisions, RSMo 300.465.

Sec. 20-495. Standing or parking on one-way streets.

The city traffic 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.

(Prior Code, § 12-2-88)

State law reference—Similar provisions, RSMo 300.470.

Sec. 20-496. 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 traffic 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.

(Prior Code, § 12-2-89)

State law reference—Similar provisions, RSMo 300.475.

Sec. 20-497. No stopping, standing or parking near hazardous or congested places.

(a) The city traffic 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.

(Prior Code, § 12-2-90)

State law reference—Similar provisions, RSMo 300.480.

Secs. 20-498—20-517. Reserved.

DIVISION 3. LOADING OR UNLOADING

Sec. 20-518. City traffic engineer to designate curb loading zones.

The city traffic 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.

(Prior Code, § 12-2-91)

State law reference—Similar provisions, RSMo 300.485.

Sec. 20-519. Permits for curb loading zones.

The city traffic engineer shall not designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two signs to indicate the ends of each such zone. The city traffic engineer upon granting a permit and issuing such signs may impose conditions 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.

(Prior Code, § 12-2-92; Ord. No. 2331, § 10, 10-23-2023)

State law reference—Similar provisions, RSMo 300.490.

Sec. 20-520. 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.

(Prior Code, § 12-2-93)

State law reference—Similar provisions, RSMo 300.495.

Sec. 20-521. 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 provision applicable to such zones are in effect.

(Prior Code, § 12-2-94)

State law reference—Similar provisions, RSMo 300.500.

Sec. 20-522. City traffic engineer to designate public carrier stops and stands.

The city traffic 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 he shall determine to be of 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.

(Prior Code, § 12-2-95)

State law reference—Similar provisions, RSMo 300.505.

Sec. 20-523. 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 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 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.

(Prior Code, § 12-2-96)

State law reference—Similar provisions, RSMo 300.510.

Sec. 20-524. 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.

(Prior Code, § 12-2-97)

State law reference—Similar provisions, RSMo 300.515.

Secs. 20-525—20-541. Reserved.

DIVISION 4. RESTRICTIONS OR PROHIBITIONS FOR CERTAIN STREETS

Sec. 20-542. Application 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.

(Prior Code, § 12-2-98)

State law reference—Similar provisions, RSMo 300.520.

Sec. 20-543. 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.

(Prior Code, § 12-2-99)

State law reference—Similar provisions, RSMo 300.525.

Sec. 20-544. 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 traffic engineer to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

(Prior Code, § 12-2-103)

State law reference—Similar provisions, RSMo 300.545.

Sec. 20-545. 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.

(Prior Code, § 12-2-100)

State law reference—Similar provisions, RSMo 300.530.

Sec. 20-546. 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 districts or upon any of the streets described by ordinance.

(Prior Code, § 12-2-101)

State law reference—Similar provisions, RSMo 300.535.

Sec. 20-547. 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.

(Prior Code, § 12-2-102)

State law reference—Similar provisions, RSMo 300.540.

Sec. 20-548. Illegally parking of trucks, truck-tractors, and semi-trailers; permits may be issued—When.

(a) *Definitions.* The following words, terms, and phrases, when used in this section shall have the meanings ascribed to them below:

Director means the director of planning and development or their authorized designee.

Permit means a truck-tractor parking permit issued pursuant to this section to authorize the parking of a single truck-tractor by a specific property owner on a specific property in full compliance with the provisions of this section.

Residential street means those public streets whose primary function is to provide access to immediately adjacent land used for single-family or multifamily residential purposes.

Semi-trailer means any wheeled vehicle, without motive power, designed to be used in conjunction with a truck-tractor so that some part of its own weight and that of its cargo load rest upon, or is carried by such truck-tractor and which is commonly used to carry and transport property over the public highways.

Truck means any vehicle with a body designed to carry property and which is generally used to carry and transport property over the public highways.

Truck-tractor means any vehicle which is generally and commonly designed to draw a semi-trailer and its cargo over the public highways.

- (b) *Parking of semi-trailers and truck-tractors prohibited.* It shall be unlawful to:
 - (1) Leave or park any semi-trailer or truck-tractor in or upon any residential street or residential property, except during the expeditious loading or unloading of property.
 - (2) Leave or park any truck, truck-tractor or semi-trailer in or upon any nonresidential public street or at the side of any street, or on any public property or thoroughfare, except that pickup trucks rated at one ton or less shall be subject to the parking regulations applicable to passenger motor vehicles.
 - (3) Idle any truck-tractor on a residential property or residential street for a continuous period greater than 30 minutes.
- (c) *Parking of truck-tractors authorized upon issuance of a truck-tractor parking permit.* Notwithstanding the provisions of section 20-548(b)(1), a property owner may park a single unloaded truck-tractor if said property owner has been issued a valid truck-tractor parking permit pursuant to this section. A permit may only be granted by the director in conformance with the provisions of this section. Any truck-tractor parking under a permit must be an operable and validly licensed vehicle.
- (d) *Truck-tractor parking permit issued—When.* A permit may be issued by the director upon compliance with the following conditions and review criteria:
 - (1) The truck-tractor shall be parked or placed on a valid vehicle accommodation area, as such term is defined in section 111-199 of the city code.
 - (2) The truck-tractor shall not be parked or placed in such a way that blocks sidewalks or other pedestrian infrastructure.
 - (3) The truck-tractor shall not be parked or placed in such a way that creates a sight visibility issue for vehicular traffic.
 - (4) The truck-tractor shall not pass over any curb or sidewalk while attempting to access the property.
 - (5) The issuance of a permit does not violate any other provision of city code.

(e) *Truck-tractor parking permit - regulations.*

- (1) A permit issued pursuant to this section shall be valid for a period of not more than one year. All permits issued pursuant to this section shall expire on December 31, of each year.
- (2) Permitted truck-tractors shall only be parked on a valid vehicle accommodation area, as such term is defined in section 111-199 of the city code.
- (3) The director is authorized to revoke any issued permits for violations of this section or for any other violations of the city code. The director shall provide written notice of the violation to the permit holder. The permit holder may, within ten days of the director's notice, request in writing an informal hearing with the director to establish that the violation has been cured or does not exist. If it is established to the reasonable satisfaction of the director that the violation has been cured or does not exist, the director shall not proceed to revoke the permit. The director may proceed to revoke the permit at the conclusion of the informal hearing or the expiration of the 10-day period.
- (4) Permits issued pursuant to this section are not transferable whatsoever.
- (5) Nothing in this section shall be construed as limiting the city's ability to enforce its nuisance regulations.

(f) In addition to the revocation procedures described in this section, violations of this section shall be an infraction and the procedures for the enforcement of parking infractions set forth in sections 20-94 and 20-95 of the city code and the other sections of this chapter are fully applicable. In addition to the aforementioned procedures, the officers of the police department or such officers as are assigned by the chief of police to enforce this article are hereby authorized to install a truck boot device designed to disable any truck, truck-tractor or semi-trailer parked in violation of this section and prevent its removal without the driver thereof first contacting the city police department and providing driver and owner information to the city police department. After the provisions of this section have been complied with, the city police department will remove the truck boot when an officer of the police department or such other officer assigned by the chief of police to enforce this article is available to do so.

(g) Truck-tractor parking permits shall only be issued for applicants who apply for said permit by June 30, 2021. Thereafter, no new truck-tractor permits shall be issued. However, those who applied for a permit on or prior to June 30, 2021, and obtained a permit, may renew their permits by applying for a renewal of their permit prior to the expiration of their current permit. Individuals whose permits are revoked or who fail to apply for a new permit prior to the expiration date of their current permit are no longer eligible to renew their permits as provided for in this section.

(Prior Code, § 12-55; Ord. No. 1588, 5-2009; Ord. No. 2118, § 4, 5-11-2020; Ord. No. 2171, § 2, 2-22-2021)

Sec. 20-549. Penalty for illegally parked trucks, truck-tractors, and semitrailers.

Anyone violating the provisions of this chapter, upon conviction, shall be punishable in accordance with section 1-9.

(Prior Code, § 12-56; Ord. No. 1588, 5-2009)

Sec. 20-550. Parking of large trucks in R districts.

No person shall park a truck, tractor, or trailer with a capacity larger than 1½ ton or the chassis thereof on any street in any area zoned R-1, R-2, or R-3 within the city between the hours of 7:00 p.m. and 6:00 a.m.; nor shall any person use any street for the purpose of repairing or reconditioning any such truck, trailer, or any common carrier or any part thereof, except when such repairs shall be necessitated by an emergency.

(Prior Code, § 12-51)

Sec. 20-551. 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 person shall operate any commercial vehicle upon streets or parts of streets so described except those commercial vehicles making deliveries thereon.

(Prior Code, § 12-2-104)

Sec. 20-552. Parking time limited.

When signs are erected designating a time limit on parking, no person shall park a vehicle longer than the time length indicated.

(Ord. No. 1932, 3-8-2017)

Sec. 20-553. Loading and unloading time limited.

When signs are erected designating a time limit on any loading or unloading, no person shall exceed the time length indicated.

(Ord. No. 1932, 3-8-2017)

Secs. 20-554—20-580. Reserved.**ARTICLE VIII. VEHICLE CONDITION AND EQUIPMENT****Sec. 20-581. Hauling of rubbish or loose material.**

All motor vehicles, and every trailer and semitrailer operating upon the public highways and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semitrailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semitrailer shall have a protective cover or be sufficiently secured so that no portion of such goods or material can become dislodged and fall from the vehicle, trailer or semitrailer while being transported or carried.

(Prior Code, § 12-17; Ord. No. 796, 4-1993)

State law reference—Similar provisions, RSMo 307.010.

Sec. 20-582. Depositing foreign matter in streets by vehicle tires prohibited.

No person shall drive or move any vehicle within the city, the wheels of which carry into or deposit in any public street of the city or in any other public place of the city, mud, dirt, sticky substances, litter or foreign matter of any kind; and if any person shall so deposit or carry onto the street or other public places any such substances, it shall be the duty of such person upon receiving knowledge thereof to remove such substances from the public way immediately; provided, however, it shall be the duty of any person, firm or corporation to whom a building permit shall have been issued, and not the duty of the driver or owner of such vehicle, to remove at least once each working day any such substances deposited or

carried on the public streets or other public places of the city by any vehicle entering or leaving the site of the building or construction project for which the building permit was issued.

(Prior Code, § 12-18; Ord. No. 796, 4-1993)

Sec. 20-583. Dimming of lights upon approach of other vehicles.

Every person driving a motor vehicle equipped with multiple-beam road lighting equipment, during the times when lighted lamps are required, shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations: Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, or is within 300 feet to the rear of another vehicle traveling in the same direction, the driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the other driver, and in no case shall the high-intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of 25 feet ahead, and in no case higher than a level of 42 inches above the level upon which the vehicle stands at a distance of 75 feet ahead.

(Prior Code, § 12-19; Ord. No. 1273, 4-2003)

State law reference—Similar provisions, RSMo 307.070.

Sec. 20-584. Vehicle equipment.

No person shall operate a motor vehicle in the city unless that vehicle is equipped as required by law, nor shall any person fail to use such equipment as required by law.

(Prior Code, §§ 12-36—12-38, 12-41)

State law reference—Vehicle equipment, RSMo ch. 307.

Sec. 20-585. Electronic message devices prohibited on vehicles.

No motor vehicle or trailer shall be operated on a public street in the city while equipped with any device that emits an electronic message directed to the front, side or rear of the exterior of the vehicle or trailer. For the purposes of this section, the term "message" shall include words, phrases, sentences, numbers, and other symbols or combinations thereof. This section shall not prohibit the lawful use of a lamp that illuminates the rear indicator on a bus or other public transportation vehicle, or messages that display proper names of firms or corporations.

(Prior Code, § 12-42; Ord. No. 1235, 4-2003)

State law reference—Similar provisions, RSMo 307.122.

Sec. 20-586. Protective headgear required for persons riding motorcycles or motor tricycles.

Every person operating or riding on any motorcycle or motor tricycle upon the streets or other public thoroughfares of the city shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet the standards and specifications established by the state director of revenue.

(Prior Code, § 12-21; Ord. No. 1238, 4-2003)

State law reference—Similar provisions, RSMo 302.020.

Chapter 21

RESERVED

Chapter 22

UTILITIES*

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- Sec. 22-19. Maximum distance city to run water mains.
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- Secs. 22-113—22-129. Reserved.

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- Sec. 22-221. Control manholes, meters and other appurtenances.

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- Sec. 22-222. Measurements, tests and analyses.
- Sec. 22-223. Special agreements with industrial concerns.
- Sec. 22-224. Definitions.
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- Sec. 22-228. Pretreatment discharge requirements.
- Secs. 22-229—22-241. Reserved.

Division 6. Rates and Charges; Billing and Collection Procedures

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Article IV. Electricity

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ARTICLE I. IN GENERAL**Sec. 22-1. Municipal utility service area—Generally; water and sewer service provided outside city limits—When; exemption for certain utility fees upon application.**

(a) *Area of service—City limits.* The city shall operate and furnish city owned municipal utility services within the corporate limits of the city. Nothing herein shall be construed as preventing the city from purchasing, leasing, erecting, installing, or otherwise acquiring real and personal property necessary, useful, or desirable to conduct its municipal utility operations at any location, whether within or outside the corporate limits of the city.

(b) *Provision of water and sewer service outside the city limits—Exemption for certain acquired systems.* The city may furnish municipal water and sewer service to users located outside the corporate limits of the city provided that such users were provided such utility services by either Rex Deffenderfer Enterprises, Inc., CTW Waterworks Regional Not for Profit Water Company, Inc., or Tuscany Hills Regional Sewer District, Inc. on the day of acquisition of these systems by the city.

(c) *Water and sewer fees—Exemption to increased rate for service outside city limits for certain users.* Where the city charges an increased rate for the provision of water or sewer service to properties lying outside the city limits, those properties lying within the areas described in section 22-1(b) may be granted an exemption to the increased rate pursuant to the following:

- (1) The fee owners of the property file an application with the city requesting an exemption from the outside city limit water or sewer service rate.
- (2) The fee owners execute an irrevocable petition and consent to annex ("petition") requesting voluntary annexation into the city. Such petition shall be a covenant running with the land and shall be binding on the fee owners, their successors, and assigns. Said petition shall include a provision that, the city council may, by resolution, invoke the provisions of the petition and cause the property to be annexed into the city provided that such annexation is in compliance with state law. The form of the petition and other supporting documents the city attorney deems necessary shall be reviewed and approved by the city attorney prior to its acceptance by the city.
- (3) The petition is recorded among the appropriate land records of the county in which the subject property is located.
- (4) If at any point the petition is found invalid or is construed as not running with the land, then the property shall no longer be exempt from the outside the city limit water or sewer rate. It is expressly stated as the intent of the city council that the exemption from the outside the city limit rate is subject to the validity of said petition and covenant.

(5) The city administrator shall administer the provisions of this section and is authorized to establish additional rules and procedures regarding the administration of this subsection.

(d) *City administrator authorized to allow water connections outside the city limits.* The city administrator may authorize the provision of municipal water service to property located outside the city limits where such service is available, provided that the fee owner of the property executes an irrevocable petition and consent to annex ("petition") requesting voluntary annexation into the city. Such petition shall be a covenant running with the land and shall be binding on the fee owners, their successors, and assigns. Said petition shall include a provision that, the city council may, by resolution, invoke the provisions of the petition and cause the property to be annexed into the city provided that such annexation is in compliance with state law. The form of the petition, and other supporting documents the city attorney deems necessary, shall be reviewed and approved by the city attorney prior to its acceptance by the city. The petition shall be recorded among the appropriate land records of the county in which the subject property is located. The city administrator is authorized to do all things necessary or convenient to carry out the terms of this subsection.

(e) *City administrator authorized to allow sewer connections outside the city limits.* The city administrator may authorize the provision of municipal sewer service to property located outside the city limits where such service is available, provided that the fee owner of the property executes an irrevocable petition and consent to annex ("petition") requesting voluntary annexation into the city. Such petition shall be a covenant running with the land and shall be binding on the fee owners, their successors, and assigns. Said petition shall include a provision that, the city council may, by resolution, invoke the provisions of the petition and cause the property to be annexed into the city provided that such annexation is in compliance with state law. The form of the petition, and other supporting documents the city attorney deems necessary, shall be reviewed and approved by the city attorney prior to its acceptance by the city. The petition shall be recorded among the appropriate land records of the county in which the subject property is located. The city administrator is authorized to do all things necessary or convenient to carry out the terms of this subsection.

(Ord. No. 2269, § 1, 7-25-2022; Ord. No. 2322, § 1, 8-14-2023)

Secs. 22-2—22-18. Reserved.

ARTICLE II. WATER SYSTEM**DIVISION 1. GENERALLY****Sec. 22-19. Maximum distance city to run water mains.**

Where new water service is required, the maximum distance the city will furnish material and labor to install water mains shall be 100 feet beyond an existing water main and meet all requirements as set for in subsection (1) of this section. Installation of any water main beyond 100 feet shall be at the expense of the party desiring water service.

- (1) *Extension by city.* Whenever an extension of the city distribution system is necessary in order to serve an applicant whose premises are located within the city's service area, the city may extend its water mains along any public right-of-way or easement where grades have been established provided that:
 - a. Such applicant requesting extension of the city water distribution system shall execute and deliver, without cost, to the city, such public right-of-way or easement indentures as in the opinion of the city are, or may be, required at the time such extension is made or may be required in the future to extend the water distribution system to an applicant located adjacent to the premises to be served by such extension.
 - b. The applicant shall deposit with the city a nonrefundable cash deposit which equals the amount the estimated cost of extending the water distribution system, a performance bond equal to the cost of extension and a one-year maintenance bond on said extension.
- (2) *Extension by applicant.* Where the provisions of subsection (1) of this section are otherwise satisfied and the applicant concerned has promptly and faithfully performed in the past all contractual obligations with the city, the applicant may make installation of the extension without cost to the city provided that:
 - a. The extension is constructed in strict accord with the construction specifications, drawings and plans prepared by or on behalf of the city; and approval of such extension is given by all appropriate state and local authorities.
 - b. All work of construction and extension shall be at the applicant's sole cost and subject to inspection and approval of the city and that such construction meets all specifications, drawings, and plans approved by the city. All expenses incurred, including but not limited to preliminary engineering, preparation of specifications, drawings, performance bonds, one-year maintenance bond, plans, and inspection of construction shall be paid by the applicant.
 - c. Upon construction being completed to the satisfaction of the city prior to connection of the extension to the existing water distribution system, all right, title and interest therein of the applicant shall be conveyed to the city, free of lien or of any other encumbrance prior to such conveyance, and the city shall be

furnished evidence satisfactory to it that the contractor and subcontractors, if any, of the extension have paid and discharged all indebtedness incurred by them for materials furnished or for work and labor done in connection with and performance and completion of the extension project.

- d. In any particular case where the applicant for water service can show reason of exceptional topographical or other physical conditions that the literal compliance with the requirements of the above provisions would cause practical difficulty or exceptional and undue hardship, the city council may modify such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship; provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of the above regulations or the desirable general development of the neighborhood and community modification thus granted shall be spread upon the minutes of the city council setting forth the reasons which, in the opinion of the city council, justified the modifications.

(Prior Code, § 18-2)

Sec. 22-20. Tampering with public utilities

- (a) A person commits the offense of tampering in the second degree if he:
 - (1) Tampers or makes connection with property of a utility; or
 - (2) Tampers with, or causes to be tampered with, any meter or other property of the water utility, the effect of which tampering is either:
 - a. To prevent the proper measuring of water service; or
 - b. To permit the diversion of any water service.
- (b) In any prosecution under subsections (1) or (2) of subsection (a), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the water service, with one or more of the effects described in subsections (1) or (2) of subsection (a), shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subsections by the person or persons who use or receive the direct benefit of the water service.
- (c) Tampering in the second degree is a misdemeanor.

(Prior Code, § 18-7; Ord. No. 1757, 10-15-2012)

Sec. 22-21. Standby or fire service lines.

The city maintains standby water lines to be used for fire protection. Provided fire service lines are not used for other purposes, no charge will be made to the customer for this service.

Such lines shall be installed to meet all applicable codes by the requesting customer, at their expense. Standby or fire service lines may be installed in two-, four-, six-, eight- or ten-inch sizes.

(Prior Code, § 18-4(e); Ord. No. 1642, 2-2010)

Sec. 22-22. Water system state of emergency.

- (a) The city administrator, after considering pumping capacity, water level in storage tanks, water level in production wells, water usage rates, weather and drought conditions and such other factors as may be deemed relevant, may declare a stage I, II or III emergency, and when so declared, no person shall use or draw water from the city's water distribution system in violation of the restrictions on usage applicable to the state of emergency declared by the city administrator.
- (b) Prior to declaring a state of emergency, the city administrator shall enter into the records of the city findings of fact upon which he based his decision and shall thereupon enter his order declaring an emergency, specifying whether the emergency is of a stage I, II or III type. He, and all city agents, officers, and employees upon whom he may call for assistance, shall thereupon proceed to implement the provisions of this section as the conditions may require.
- (c) The fact of the declaration of emergency, the type of emergency, and the restrictions on usages applicable to that type of declaration shall be disseminated to the general public through the local broadcast and print media and in such other manners as the city administrator may determine is reasonably calculated to inform the residents of and visitors to the city of the declaration. If reasonable efforts to bring the declaration of emergency to the public have been made, considering the seriousness of the conditions, the time available, and the media or means available for the dissemination of information, lack of knowledge of the declaration of emergency shall be no defense to a violation of this section.
- (d) (1) As used herein, the term "stage I emergency" means that it shall be unlawful for water to be used from the water distribution system for the watering of grasses, lawns, gardens, trees, shrubs, or similar vegetation; to wash any building, sidewalks, driveways or any outdoor structure; to fill or refill any pools, hot tubs, tanks or other vessels not used for direct public health and welfare except when done in compliance with a watering schedule established by the city administrator and advertised to the public pursuant to subsection (c) of this section. It shall be unlawful to wash motor vehicles of any type, trailers of any type, and other automotive or boating equipment except when done in compliance with a watering schedule established by the city administrator or at a car wash that has, prior to the declaration of the state of emergency, been issued a business license by the city for that purpose.

(2) Water rates for $\frac{5}{8} \times \frac{3}{4}$ residential service connections during a stage I emergency will be adjusted. All water used in excess of 15,000 but less than 25,000 will be charged

at a rate 25 percent higher than the regular rate per 1,000 gallons. All water used in excess of 25,000 will be charged at a rate 50 percent higher than the regular rate per 1,000 gallons.

- (3) Bulk water rates during a stage I emergency will be charged at a rate 50 percent higher than the regular rate for bulk water per 1,000 gallons.
- (e) (1) As used herein, the term "stage II emergency" means that it shall be unlawful for water to be used from the water distribution system for the watering of grasses, lawns, gardens, trees, shrubs, or similar vegetation; to wash any building, sidewalks, driveways or any outdoor structure; to fill or refill any pools, hot tubs, tanks or other vessels not used for direct public health and welfare. It shall be unlawful to wash motor vehicles of any type, trailers of any type, and other automotive or boating equipment by any means except at a car wash that has, prior to the declaration of the state of emergency, been issued a business license by the city for that purpose; or to draw water from the city water system from any faucet or outlet when such water is not being used for ordinary and usual domestic, commercial, or industrial purpose.
- (2) Water rates for $\frac{5}{8} \times \frac{3}{4}$ residential service connections during a stage II emergency will be adjusted. All water used in excess of 15,000 but less than 25,000 will be charged at a rate 25 percent higher than the stage I rate per 1,000 gallons. All water used in excess of 25,000 will be charged at a rate 50 percent higher than the stage I rate per 1,000 gallons.
- (3) Bulk water rates during a stage II emergency will be charged at a rate 50 percent higher than the stage I rate for bulk water per 1,000 gallons.
- (f) (1) As used herein, the term "stage III emergency" means that conditions on the distribution system are critical and all efforts are for securing the water supply for the health and welfare of the citizens. During a stage III emergency, it shall be unlawful to use water in any manner for the watering of grasses, lawns, gardens, trees, shrubs, or similar vegetation under any conditions or by any means; or to wash any motor vehicle, trailer, or other automotive or boating equipment; or to wash any building, sidewalks, driveways or any outdoor structure under any conditions or by any means, including at a commercial car wash, or to fill or refill any pools, hot tubs, tanks or other vessels not used for direct public health and welfare.
- (2) Water rates for $\frac{5}{8} \times \frac{3}{4}$ residential service connections during a stage III emergency will be adjusted. All water used in excess of 15,000 but less than 25,000 will be charged at a rate 25 percent higher than the stage II rate per 1,000 gallons. All water used in excess of 25,000 will be charged at a rate 50 percent higher than the stage II rate per 1,000 gallons.
- (3) Violations for a stage III emergency may result in the loss of service. During a stage III Emergency, the city may curtail service by removing the water meter and capping

the service until outstanding accounts have been satisfied per subsection (h)(4) of this section. Further violation may result in the loss of service until the state of emergency is reduced to Stage 1.

- (4) During a stage III emergency, no bulk water service is available. A bulk service customer who uses water during a stage III emergency shall be charged a rate of 100 percent higher than the stage II rate per 1,000 gallons and the loss of service until the emergency level has been removed. Further use shall be considered theft.

(g) At the next regular or special meeting of the city council following the declaration of an emergency of either stage by the city administrator, the city council shall review the findings of fact and declaration of the city administrator. After making such review, the council shall either confirm the actions of the city administrator, reduce the stage of emergency or overturn the declaration in its entirety; provided, however, that no action of the council to reduce the stage of emergency declared by the city administrator or to overturn a declaration of emergency shall be effective unless such action is approved by the majority vote of all the members of the council then-elected or appointed and serving on the council. Further, no action of the council in reducing the stage of emergency or overturning the action of the city administrator in declaring an emergency shall be a defense to a charge of violating the provisions of this section for acts which occurred after the declaration became effective, but prior to its modification or reversal by the city council.

(h) The following additional provisions shall be applicable to the provisions of this section:

- (1) A declaration of emergency made under this section shall continue in full force and effect unless and until the stage of the declaration is increased or reduced (in which event, the prior declaration shall be superseded as of the date and time of the entry of the new declaration), or released by written order of the city administrator or reduced or reversed by action of the city council.
- (2) In declaring a state of emergency, the city administrator may, if circumstances justify, make the declaration applicable only for specified hours of the day or for certain specified days.
- (3) No culpable mental state shall be required for a person charged with the violation of the provisions of this section to be found guilty of such violation. The owner or occupant of the premises upon which such illegal use shall occur shall also be deemed guilty of a violation occurring upon any such premises, regardless of the person who shall have committed such illegal use. The preceding sentence shall not be construed as relieving the person actually making such illegal use from responsibility therefor.
- (4) The water service of any person found guilty of knowingly violating the provisions of this section may be disconnected from the water distribution system, and, if so disconnected, shall not be reconnected until he shall have paid all costs of water used and a disconnection/reconnection fee in the amount established by section 2-151 of this Code.

(i) *Guidelines and examples for emergency declaration considerations.* Because of continually varying conditions on the water distribution system, weather and other environmental factors, any one or combination of occurrences may be considered as benchmarks for the city administrator in making an emergency declaration. Some examples include:

- (1) Water level in a well or wells that is reduced to within 50 feet above the top of the pump.
- (2) Water usage in excess of pumping capacity for sustained periods beyond normal operations.
- (3) Storage capacity in one or more towers being reduced during peak periods below minimum levels for sustained periods.
- (4) System component failure, such as a well pump failure, large water leak or large fire combined with any of subsections (i)(1)—(3) of this section or during peak usage times that could cause any of the above factors to occur.

(j) *City facilities and operations.* During a declared water system emergency, all city departments and facilities shall reduce certain operations that may contribute to further escalation of the emergency. During declared periods, all departments shall:

- (1) Reduce all outdoor watering to the level implemented for other users. During a stage I emergency, reduce outdoor watering to only recreational fields, shrubs, flowerbeds and trees.
- (2) During stage II and III emergency, stop all outdoor watering. Cease all nonessential outdoor watering of grass areas in yards and open spaces.
- (3) During all stages, cease all vehicle and equipment and other washing except where necessary for operations.
- (4) During stage I emergency, reduce hydrant or system flushing to only essential operations necessary to maintain the health, safety and welfare of the citizens. Increase discretion with increased stages.

(Ord. No. 1753, § 18-14, 9-5-2012; Ord. No. 2331, § 11, 10-23-2023)

Secs. 22-23—22-45. Reserved.

DIVISION 2. RATES AND CHARGES; BILLING AND COLLECTION PROCEDURES

Sec. 22-46. Water charges.

(a) *Base rates for the provision of water service.* A base rate for the provision of water service shall be charged by the city. The monthly base rates shall be as follows:

- (1) For the provision of water service to residential dwelling units using a $\frac{5}{8}$ by $\frac{3}{4}$ -inch meter, the following base rate shall be charged:
 - a. Beginning April 1, 2024, a base rate of \$16.50 shall be charged for the first 3,000 gallons of water service provided.

- b. Beginning April 1, 2025, a base rate of \$18.00 shall be charged for the first 3,000 gallons of water service provided.
 - c. Beginning April 1, 2026, a base rate of \$18.50 shall be charged for the first 3,000 gallons of water service provided.
 - d. Beginning April 1, 2027, a base rate of \$19.00 shall be charged for the first 3,000 gallons of water service provided.
 - e. Beginning April 1, 2028, a base rate of \$19.50 shall be charged for the first 3,000 gallons of water service provided.
 - f. Beginning April 1, 2029, a base rate of \$20.00 shall be charged for the first 3,000 gallons of water service provided.
 - g. Beginning April 1, 2030, a base rate of \$20.50 shall be charged for the first 3,000 gallons of water service provided.
- (2) For the provision of water service using a one-inch meter, the following base rate shall be charged:
- a. Beginning April 1, 2024, a base rate of \$56.50 shall be charged.
 - b. Beginning April 1, 2025, a base rate of \$58.00 shall be charged.
 - c. Beginning April 1, 2026, a base rate of \$58.50 shall be charged.
 - d. Beginning April 1, 2027, a base rate of \$59.00 shall be charged.
 - e. Beginning April 1, 2028, a base rate of \$59.50 shall be charged.
 - f. Beginning April 1, 2029, a base rate of \$60.00 shall be charged.
 - g. Beginning April 1, 2030, a base rate of \$60.50 shall be charged.
- (3) For the provision of water service using a two-inch meter, the following base rate shall be charged:
- a. Beginning April 1, 2024, a base rate of \$141.50 shall be charged.
 - b. Beginning April 1, 2025, a base rate of \$143.00 shall be charged.
 - c. Beginning April 1, 2026, a base rate of \$143.50 shall be charged.
 - d. Beginning April 1, 2027, a base rate of \$144.00 shall be charged.
 - e. Beginning April 1, 2028, a base rate of \$144.50 shall be charged.
 - f. Beginning April 1, 2029, a base rate of \$145.00 shall be charged.
 - g. Beginning April 1, 2030, a base rate of \$145.50 shall be charged.
- (4) For the provision of water service using a four-inch meter, the following base rate shall be charged:
- a. Beginning April 1, 2024, a base rate of \$287.00 shall be charged.
 - b. Beginning April 1, 2025, a base rate of \$288.50 shall be charged.
 - c. Beginning April 1, 2026, a base rate of \$289.00 shall be charged.

- d. Beginning April 1, 2027, a base rate of \$289.50 shall be charged.
- e. Beginning April 1, 2028, a base rate of \$290.00 shall be charged.
- f. Beginning April 1, 2029, a base rate of \$290.50 shall be charged.
- g. Beginning April 1, 2030, a base rate of \$291.00 shall be charged.

(b) *Additional rates for the provision of water service.* In addition to the base rates established herein, an additional monthly rates rate shall be charged as set forth herein.

- (1) For the provision of water service to residential dwelling units using a $\frac{5}{8}$ by $\frac{3}{4}$ -inch meter an additional rate of \$2.85 shall be charged for every 1,000 gallons of water provided above the first 3,000 gallons provided in addition to the applicable base rate.
- (2) For the provision of water service to non-residential dwelling units using a $\frac{3}{4}$ -inch meter, one-inch meter, two-inch meter, or four-inch meter the following additional rates shall be charged in addition to the applicable base rate:
 - a. An additional rate of \$2.35 shall be charged for every 1,000 gallons of water provided for the first 100,000 gallons provided.
 - b. An additional rate of \$1.70 shall be charged for every 1,000 gallons of water provided over the first 100,000 gallons provided.
 - c. An additional rate of \$1.40 shall be charged for every 1,000 gallons of water provided over the first 500,000 gallons provided.
- (c) The rate for bulk water service shall be \$5.00 for every 1,000 gallons of water provided.

(d) The rates established in this section, except for the rate for bulk water service, shall be increased by a rate of one and one-half times when the user's service address is wholly or partly outside the city limits.

(e) A water service user who has applied for water service to a service address shall be liable for all charges for water service furnished to such address until such time as said user notifies the city, in writing, to discontinue the service.

(Prior Code, § 18-4(a)—(d); Ord. No. 1642, 2-2010; Ord. No. 2262, § 1, 6-27-2022; Ord. No. 2348, § 1, 2-19-2024)

Sec. 22-47. Water deposits.

(a) All users of water service shall pay a refundable deposit with the city as set forth herein. Said deposit shall be provided prior to the time water service is obtained by the user. In the event any bill issued by the city for water service becomes delinquent the city may apply the deposit toward any outstanding balance.

(b) For residential users of water service, whose service address is wholly within the city limits, the deposit amount shall be \$50.00. For residential users of water service, whose service address is partially or wholly outside of the city limits, the deposit amount shall be \$75.00.

(c) All residential users of water service who authorize the city to collect their water service payments via an automated clearing house program and who have not had any missed or late payments for water service for a consecutive 12-month period shall be eligible to have their deposit refunded as a credit to their utility account.

(d) Commercial users of water service shall provide a deposit in an amount equal to two times their estimated water bill before the user obtains water service from the city. The city may use the funds of the deposit, or security referenced herein towards any delinquent bills for water service of the users.

(1) A commercial user of water service may opt to not provide a deposit when said user authorizes the city to utilize direct banking withdrawal for their monthly water service payments and when the user provides to the city a security in the amount of the required deposit and lists the city as the beneficiary of such security.

(2) Whenever a banking withdrawal is returned for insufficient funds, the commercial user shall provide a deposit in an amount calculated at two times the user's average water bill. If the user fails to provide the replacement deposit, then they may be subject to disconnect as provided herein for failing to maintain a deposit with the city.

(e) Deposits required to be provided by this section shall not bear interest.

(f) The city may disconnect water service without notice to any water service user who fails to make or maintain the applicable deposit required herein.

(g) The deposits required by this section shall be refunded at the termination of water service after all charges that are due and payable by the water service user have been paid. Deposits shall be applied to the user's final bill when the water service user disconnects their service with the city, any remaining balance will be returned to the user. Refunds shall be issued in the name of the account holder only.

(h) The deposits required herein may be waived for the following situations:

(1) Where the service address is vacant, and the property owner requests a waiver from the deposit requirement in writing.

(2) Where the service address is in the possession of a bank or other financial institution due to foreclosure and evidence of such is provided to the city.

(i) Upon notification of a bankruptcy filing for a water service user, the city shall make a final reading of the customer's water meter. Said user's account shall be closed, any deposits or securities shall be applied to any outstanding water service charges. The water service user's account shall remain inactive until further notice from the bankruptcy court as to the disposition of the outstanding balance. A post-bankruptcy account may be opened for a user who requires water services. All charges after the bankruptcy notification shall be posted to the post-bankruptcy account. A deposit of two times the average monthly water bill shall be required as a water deposit for a post-bankruptcy account.

(j) When the provisions of this section call for estimating the water service bill of a user to determine the amount of a deposit, the deposit amount shall be determined by calculating the average of the last 12 months of water usage at the service address. If the service address does not have at least 12 months of prior usage, then the deposit shall be based on the size of the meter, as follows:

(1) For a $\frac{3}{4}$ -inch meter, a deposit of \$150.00 shall be required.

(2) For a two-inch meter, a deposit of \$300.00 shall be required.

(3) For a four-inch meter, a deposit of \$500.00 shall be required.

(Prior Code, § 18-5; Ord. No. 1666, 9-13-2010; Ord. No. 1716, 12-19-2011; Ord. No. 1736, 4-16-2012; Ord. No. 1868, 7-20-2015; Ord. No. 2059, § I, 6-24-2019; Ord. No. 2262, § 2, 6-27-2022)

Sec. 22-48. Provisions related to payment of bills for water charges.

(a) All bills issued by the city for the payment of water service shall be due and payment shall be made by the due date stated on the bill. Bills shall be mailed via United States regular mail. Bills shall be considered delinquent after 5:00 p.m., central time, on the due date stated on the bill. The due date for water service bills shall be the fifth or twentieth day of the month as stated on the bill. Payments that are mailed, including payments made by a bank bill pay service provided by the user's bank or financial institution, must be received by the due date stated on the bill to avoid a surcharge or the disconnection of service. A surcharge in the amount established in section 2-151 of this Code shall be added to all bills for water service which are not paid by the stated due date. If a bill for water service is not paid by the tenth calendar day following the due date, the provision of water service shall be subject to being disconnected. Following disconnection of services due to nonpayment, full payment of all delinquent utility accounts due shall be paid prior to the city reconnecting water utility service. Furthermore, a service charge in the amount established in section 2-151 of this Code shall be charged for the reconnection of water service or any other utilities which require reconnection.

(b) Bills and notices to water service users shall be deemed to have been presented and given when sent via United States regular mail to the address of the utility user on file with the city.

(c) The city shall not be bound by bills issued under mistake of fact as to the quantity and nature of water service rendered.

(d) The city shall have the right to read meters and issue bills either monthly or for such other periods as may be deemed practicable by the city and such bills shall be due and payable as provided herein.

(e) Water service shall be provided for the sole use of the water utility user. The resale or sub-metering of water or water service by any person is prohibited. A separate bill shall be issued for each meter, and water service furnished to the same user through separate meters shall not be added or cumulated for billing purposes, irrespective of the location of the meters

except only when such separate meters are installed on the same premises for the convenience and at the request of city, in which event the water service furnished through said meters may be cumulated for billing purposes.

(f) In case of a dispute involving the accuracy of a water meter, such meter may be tested upon the request of the water user and the bill will be adjusted if the testing reveals a discrepancy. If upon testing, the meter is found to be accurate, the requesting water user shall reimburse the city for all testing costs associated with the request. The city may place this on the user's next bill.

(g) The city administrator, for the purpose of preventing the disconnection of water service, is hereby authorized to enter into repayment agreements with water utility users provided that said users have not failed to fully pay a prior repayment agreement amount within the last 12 months preceding the current request for a repayment agreement. Repayment agreements shall not exceed a term of three months.

(h) The city administrator is authorized and empowered to promulgate additional procedures to carry out the terms and intent of this section. Such additional procedures shall be placed on file for public inspection in the office of the city clerk and shall include, without limitation, procedures related to the disconnection of water service for nonpayment and provisions related to repayment agreements. Violations of these additional procedures shall be considered violations of this section.

(Prior Code, § 18-6; Ord. No. 1666, 9-13-2010; Ord. No. 1716, 12-19-2011; Ord. No. 1868, 7-20-2015; Ord. No. 2059, § II, 6-24-2019; Ord. No. 2262, § 3, 6-27-2022; Ord. No. 2331, § 12, 10-23-2023)

Secs. 22-49—22-69. Reserved.

DIVISION 3. CROSS CONNECTION CONTROL

Sec. 22-70. 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:

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch.

Auxiliary water supply means any water source or system, other than the public water supply, that may be available in the building or premises.

Backflow means the flow other than the intended direction of flow, of any foreign liquids, gases or substances into the distribution system of a public water supply.

Backflow prevention device means any device, method, or type of construction intended to prevent backflow into a potable water system.

Containment means protection of the public water supply by installing a cross connection control device or air gap separation on the main service line to a facility.

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.

Cross connection means any physical link between a potable water supply and any other substance, fluid or source, which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

Customer means the owner or person in control of any premises supplied by or in any manner connected to a public water system.

DNR means the state department of natural resources.

Hazard, degree of, means an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

- (1) *Hazard, health,* means any condition, device or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water customer.
- (2) *Hazard, plumbing,* means a plumbing type cross connection in a customer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.
- (3) *Hazard, pollution,* means an actual or potential threat to the physical properties of the water system or to the potability of the public or the customer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.
- (4) *Hazard, system,* means an actual or potential threat of severe damage to the physical properties of the public potable water system or the customer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

Industrial process system means any system containing a fluid or solution, which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollution or plumbing hazard if introduced into a potable water supply.

Isolation means protection of a facility service line by installing a cross connection control device or air gap separation on an individual fixture, appurtenance or system.

Pollution means the presence of any foreign substances (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 unreasonably affect such waters for domestic use.

Public potable water system means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the state department of natural resources.

Service connection means the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

Water purveyor means the owner, operator or individual in responsible charge of a public water system.

(Prior Code, § 18-12-2)

Sec. 22-71. Violations.

(a) The water purveyor shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this division is not installed, tested and maintained in a manner acceptable to the water purveyor, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross connection exists on the premises.

(b) Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects in conformance with this division to the satisfaction of the water purveyor.

(c) Provided that the water purveyor becomes cited by the DNR as a result of a customer's actions or negligence of this policy, the water purveyor may in addition to subsections (a) and (b) of this section, require any fees, fines or other administrative cost to be reimbursed to the water purveyor prior to reconnection of service.

(Prior Code, § 18-12-10)

Sec. 22-72. Cross connection control policy.

(a) This section will be reasonably interpreted by the water purveyor. It is the water purveyor's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

(b) The water purveyor shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all customers is required to implement and maintain the program to control cross connections. The water purveyor and customer are jointly responsible for preventing contamination of the water system.

(c) If, in the judgment of the water purveyor or his authorized representative, cross connection protection is required through either piping modification or installation of an approved backflow prevention device, due notice shall be given to the customer. The customer shall immediately comply by providing the required protection at his own expense; and failure, refusal, or inability on the part of the customer to provide such protection shall constitute grounds for discontinuing water service to the premises until such protection has been provided.

(Prior Code, § 18-12-1)

Sec. 22-73. Cross connections prohibited.

- (a) No water service connection shall be installed or maintained to any premises where actual or potential cross connections to the public potable or customer's water system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the water purveyor, and as required by the laws and regulations of DNR.
- (b) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or customer's water system unless such auxiliary water supply and the method of connection and use of such supply shall have been approved by the water purveyor and DNR.
- (c) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the water purveyor as necessary for the protection of health and safety.

(Prior Code, § 18-12-3)

Sec. 22-74. Survey and investigations.

- (a) The customer's premises shall be open at all reasonable times to the water purveyor, or his authorized representative to conduct surveys and/or investigations of water use practices within the customer's premises to determine whether there are actual or potential cross connections to the customer's water system through which contaminants or pollutants could backflow into the public potable water system.
- (b) On request of the water purveyor or his authorized representative, the customer shall furnish information on water use practices within his premises.
- (c) It shall be the responsibility of the water customer to conduct periodic surveys of water use practices on his premises to determine whether there are actual or potential cross connections to his water system through which contaminants or pollutants could backflow into his or the public potable water system.

(Prior Code, § 18-12-4)

Sec. 22-75. Type of protection required.

- (a) An approved air gap separation shall be installed where the public potable water system may be contaminated with substances that could cause a severe health hazard.
- (b) An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where the public potable water system may be contaminated with a substance that could cause a system or health hazard.
- (c) An approved air gap separation or an approved reduced pressure principle backflow prevention device or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(Prior Code, § 18-12-5)

Sec. 22-76. Where protection is required.

(a) An approved backflow prevention device shall be installed on each service line to a customer's water system service premises where, in the judgment of the water purveyor or DNR, actual or potential hazards to the public potable water system exist. The type and degree of protection required shall be commensurate with the degree of hazard.

(b) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the water purveyor or DNR, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

- (1) Premises having auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the water purveyor and DNR.
- (2) Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist.
- (3) Premises where entry is restricted so that inspection for cross connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross connections do not exist.
- (4) Premises having a repeated history of cross connections being established or reestablished.
- (5) Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion.
- (6) Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or, where a cross connection could reasonably be expected to occur, a serious health hazard may result.

(c) The following types of facilities fall into one or more of the categories of premises where an approved air gap separation or reduced pressure principle backflow prevention device is required by the water purveyor and DNR to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the water purveyor and DNR:

- (1) Aircraft and missile plants.
- (2) Automotive plants.
- (3) Auxiliary water systems.
- (4) Beverage bottling plants.
- (5) Canneries, packing houses and reduction plants.

- (6) Car washing facilities.
- (7) Chemical manufacturing, processing, compounding or treatment plants.
- (8) Film laboratories.
- (9) Fire protection systems.
- (10) Hazardous waste storage and disposal sites.
- (11) Hospitals, mortuaries, clinics.
- (12) Irrigation and sprinkler systems.
- (13) Laundries and dye works.
- (14) Metal manufacturing, cleaning, processing and fabricating plants.
- (15) Oil and gas production, storage or transmission properties.
- (16) Paper and paper products plants.
- (17) Plating plants.
- (18) Power plants.
- (19) Printing and publishing facilities.
- (20) Radioactive material processing plants or nuclear reactors.
- (21) Research and analytical laboratories.
- (22) Rubber plants, natural and synthetic.
- (23) Sewage and storm drainage facilities-pumping stations.
- (24) Waterfront facilities and industries.

(Prior Code, § 18-12-6)

Sec. 22-77. Backflow prevention devices.

- (a) Any backflow prevention device required by this section shall be of a model or construction approved by the water purveyor and DNR.
 - (1) Air gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch.
 - (2) A double check valve assembly or a reduced pressure principle backflow prevention device shall be approved by the water purveyor and shall appear on the current "list of approved backflow prevention devices" established by DNR.
- (b) Existing backflow prevention devices approved by the water purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this section, so long as the water purveyor is assured that they will satisfactorily protect the water system. Whenever the existing device is

moved from its present location, or required more than minimum maintenance, or when the water purveyor finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this section.

(Prior Code, § 18-12-7)

Sec. 22-78. Installation.

(a) Backflow prevention devices required by this section shall be installed at a location and in a manner approved by the water purveyor and shall be installed at the expense of the water customer.

(b) Backflow prevention devices installed on the service line to the customer's water system shall be located on the customer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.

(c) Backflow prevention devices shall be located so as to be readily accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid.

(Prior Code, § 18-12-8)

Sec. 22-79. Inspection and maintenance.

(a) It shall be the duty of the customer at any premises on which backflow prevention devices required by this division are installed to have inspections, tests and overhauls made in accordance with the following schedule or more often where inspections indicate a need and in accordance with the provisions of this section.

- (1) Air gap separations shall be inspected at the time of installation and at least by July 1 of each year thereafter.
 - (2) Double check valve assemblies shall be inspected and tested for tightness at the time of installation and by July 1 of each year thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least every 30 months.
 - (3) Reduced pressure principal backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least by July 1 of each year thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least every five years.
 - (4) All irrigation or lawn sprinkler backflow assemblies shall be tested by July 1 of each year.
- (b) Inspections, tests and overhauls of backflow prevention devices shall be made at the expense of the water customer and shall be performed by a person certified by the State of Missouri to inspect, test, and overhaul backflow prevention devices.

(c) Whenever backflow prevention devices are found to be defective, they shall be repaired or replaced at the expense of the customer without delay. Whenever backflow prevention devices are found to be defective, they shall be disconnected, and water service shall be suspended until the backflow prevention device has been repaired or replaced and has passed inspection.

(d) The water customer shall maintain and provide to the city a complete record of each backflow prevention device from installation to removal of said backflow prevention device. This shall include a comprehensive listing that includes a record of all tests, inspections, repairs, and overhauls which are required by this section.

(e) The water customer shall provide a copy of records and information, listed in subsection (d) of this section, to the city when testing, maintenance or repair activities are completed. Such records and information shall be provided to the city by the water customer by July 1 of each year. Water customers shall submit such records and information to the city on forms approved by the city for such purpose.

(f) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without separation authorization by the city.

(g) If a water customer fails to provide for the inspections, tests, repair, and overhauls required herein, the city shall have the right to conduct the required test by a state certified person able to inspect, test, and overhaul backflow prevention devices. Prior to exercising this authority, the city shall notify the water customer of the city's intent to perform such inspection, repair test, or overhaul with at least ten days written notice. Should the water customer fail to provide the required inspection, test, or overhaul, the city shall proceed with conducting the test, inspection, repair, or overhaul and may assess the reasonable costs incurred by the city on the water customer's next water bill.

(h) In addition to the provisions of section 22-79(g), violations of the provisions of this section shall be punishable pursuant to section 1-9 of this Code.

(Prior Code, § 18-12-9; Ord. No. 2347, § 1, 2-19-2024)

Secs. 22-80—22-101. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL

DIVISION 1. GENERALLY

Sec. 22-102. 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:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in a period of

five days at a temperature of 20 degrees centigrade, expressed in milligrams per liter (mg/l). Such BOD shall be determined as described under the heading "Biochemical Oxygen Demand" in the Standard Methods for the Examination of Water and Wastewater (latest edition) as published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

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 (1.5 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.

City sewer inspector means a sewer inspector appointed by the city administrator who shall be the authorized representative of the city who shall make such inspections as are necessary to properly carry out the provisions of this chapter. The sewer inspector may be the director of public works, water quality superintendent and assistant water quality superintendent, wastewater or lead treatment plant operator or other authorized representative designated by the city administrator.

Combined sewer means a sewer receiving both surface runoff and sewage.

Commercial user means any person, firm, partnership or corporation occupying any building or structure which is connected to the city sewer system, the principal use of which is engaging in commerce or trade, and having a financial profit as the primary aim.

Contact person means the on-site manager of food service establishments.

Fats, oils, and grease (FOG) means animal and plant derived substances that may solidify or become viscous between temperatures of 32 degrees Fahrenheit to 150 degrees Fahrenheit (0 degrees Celsius to 65 degrees Celsius), and that may separate from wastewater by gravity. The term "FOG" is also identified as any substance identified as grease per the most current EPA method as listed in the Code of Federal Regulations 40 CFR 136.

Finance charge means that portion of the total wastewater service charge, which is levied to provide funds to retire the debt incurred to finance the sewer system improvements.

Food service establishment (FSE) means a facility that uses food preparation processes and that is regulated by the county health department. These facilities include, but are not limited to, restaurants, hotel/motel kitchens, hospitals, school kitchens, bars, factory cafeterias, clubs, delis, kiosks, tea rooms, snack bars, ice cream shops, fudge shops, food courts, coffee shops, cafeterias, diners, and any other facility considered to produce fats, oils, and grease originating from animal or vegetable sources and/or dispose of their waste product.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

Industrial user means any nongovernmental user of the city's wastewater works that discharges wastes other than primarily domestic waste or wastes for sanitary convenience.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from normal domestic wastewater.

Institutional user means any public institution or organization occupying any building or structure, which is connected to the city sewer system, the principal use of which is dedicated to public service, such as schools, churches and civic organizations.

Milligram per liter (mg/l) is a unit of measure that equates to parts per million (ppm).

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Normal domestic wastewater means any wastes having a five-day BOD concentration not in excess of 280 mg/l or a suspended solids concentration not in excess of 300 mg/l.

Notice of violation (NOV) means an administrative notice to the sewer user of a violation of this article and the required action and schedule to remedy the violation.

Operation and maintenance means all expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

Owner means the property owner or leaseholder of a property served directly or indirectly by the public sewer system.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Point source pollution means a distinct, identifiable source of pollution or discharge to the ground surface or to the wastewater system, generally from a pipe.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and it is controlled by public authority.

Publicly owned treatment works (POTW) means any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include:

- (1) Intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances;
- (2) Extensions improvement, remodeling, additions and alterations thereof;
- (3) Elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; and
- (4) Any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or
- (5) Any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined stormwater and sanitary sewer systems.

Replacement means expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Residential contributor means any contributor to the city's treatment works whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.

Sanitary sewer means a sewer which carries sewage, and to which stormwater, surface water, and groundwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such groundwater, surface water and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collection, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Storm drain or storm sewer means a sewer, which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Total suspended solids (TSS) or (SS) means solids that either float on the surface of or are in suspension in water, sewage, or other liquids, and which are removable by filtering.

Toxic wastes means any waste which is deleterious to the treatment plant operation or to sludge utilization, which constitutes a hazard to humans or animals, or which will create a hazard in the receiving waters of the sewage treatment plant.

Useful life means the estimated period during which a treatment works will be operated.

User charge means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the wastewater treatment works.

Water meter means a water volume measuring and recording device, furnished and/or installed by the city or furnished and/or installed by a user and approved by the city.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Prior Code, § 17-1; Ord. No. 1747, § 17-1, 8-8-2012)

Sec. 22-103. Violations.

(a) *Violation of article.* Any person found to be violating any provision of this article shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) *Fine for violation.* Any person who shall continue to be in violation beyond the time limit provided for in subsection (a) of this section shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than \$25.00.

(c) *Reimbursement to city for expenses.* Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violations.

(Prior Code, §§ 17-80—17-82; Ord. No. 1747, §§ 17-80—17-82, 8-8-2012)

Sec. 22-104. Destruction of property.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

(Prior Code, § 17-70; Ord. No. 1747, § 17-70, 8-8-2012)

Sec. 22-105. Efficient operation of sewage equipment.

Sufficient qualified personnel shall be retained and operational tests and measurements, as required by the state department of natural resources, shall be performed to ensure proper and efficient operation and maintenance of the sewage treatment works from the time of completion of construction or commencement of operation, whichever is earlier, until such time as the state department of natural resources may approve discontinuance of operation or disposal of the works.

(Prior Code, § 17-71; Ord. No. 1747, § 17-71, 8-8-2012)

Sec. 22-106. Authorized employees.

The city sewer inspector and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The city sewer inspector or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(Prior Code, § 17-72; Ord. No. 1747, § 17-72, 8-8-2012)

Sec. 22-107. Observation of safety rules.

While performing the necessary work in private properties referred to in section 22-106, the city sewer inspector or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property for city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by section 22-221.

(Prior Code, § 17-73; Ord. No. 1747, § 17-53, 8-8-2012)

Sec. 22-108. Entrance by employees on private property.

The city sewer inspector and other duly authorized employees of the city bearing proper credentials and identifications shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection,

observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement, and such work shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Prior Code, § 17-74; Ord. No. 1747, § 17-74, 8-8-2012)

Sec. 22-109. Illegal placement of sewage.

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 said city, any human or animal excrement, garbage or other objectionable waste.

(Prior Code, § 17-2; Ord. No. 1747, § 17-2, 8-8-2012)

Sec. 22-110. Discharging untreated sewage in natural outlets.

It shall be unlawful to discharge into any natural outlet within the city or in any area under the jurisdiction of said city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Prior Code, § 17-3; Ord. No. 1747, § 17-3, 8-8-2012)

Sec. 22-111. Construction of private sewage disposal.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Prior Code, § 17-4; Ord. No. 1747, § 17-4, 8-8-2012)

Sec. 22-112. Construction of proper toilet facilities.

The owner 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 or combined sewer of the city, is hereby required at his 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 chapter.

(Prior Code, § 17-5; Ord. No. 1747, § 17-5, 8-8-2012; Ord. No. 2331, § 13, 10-23-2023)

Secs. 22-113—22-129. Reserved.

DIVISION 2. RESERVED*

Secs. 22-130—22-157. Reserved.

***Editor's note**—Ord. No. 2331, § 14, adopted October 23, 2023, repealed division 2, §§ 22-130—22-137, which pertained to private sewage disposal systems and derived from Prior Code, §§ 17-10—17-17; Ord. No. 1394, 2-2006; Ord. No. 1747, §§ 17-10—17-17, 8-8-2012.

DIVISION 3. PUBLIC SEWAGE DISPOSAL SYSTEM

Sec. 22-158. Disturbing public sewer.

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 sewer inspector.

(Prior Code, § 17-25; Ord. No. 1747, § 17-25, 8-8-2012)

Sec. 22-159. Public sewer permit.

The owner of any house or building, or his representative, shall obtain a sewer connection permit at city hall before any sewer construction is started. The cost of this permit shall be as set forth in section 2-151 of this Code.

(Prior Code, § 17-26; Ord. No. 1747, § 17-26, 8-8-2012; Ord. No. 2331, § 15, 10-23-2023)

Sec. 22-160. Private pump station and force main permit required.

The city requires a permit prior to construction for a private pump station and force main. The owner shall submit to the city a letter from a state-licensed engineer stating what pumping requirements will be needed, size of line needed, type of pump designed, the specifications from the manufacturer of the pump, and the engineer's recommendations that this pump will meet the state department of natural resource's requirements and with the city's approval. In addition to the above, the engineer shall also draw a sketch showing the location and distance of the line and location of the pump. Once this letter and drawing are received and approved, the owner will receive a sewer service line permit from the city.

(Prior Code, § 17-26A; Ord. No. 991, 12-1996; Ord. No. 1747, § 17-26A, 8-8-2012)

Sec. 22-161. Checking on locations of sewer mains.

Before starting construction of a house or building connection, the owner, or his representative, shall check with the city sewer inspector to be sure of the location of the tee joint provided for their particular house or building. In connecting to the tee joint, a trench shall be opened over the tee for a distance of ten feet each way, and in the event a tee is not available, a connection shall be made under the direct supervision of the city sewer inspector.

(Prior Code, § 17-27; Ord. No. 937, 11-1995; Ord. No. 1747, § 17-27, 8-8-2012)

Sec. 22-162. Costs of connection to be owner's expense.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. 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.

(Prior Code, § 17-28; Ord. No. 1747, § 17-28, 8-8-2012)

Sec. 22-163. Separate sewer for each building.

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 building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Prior Code, § 17-29; Ord. No. 1747, § 17-29, 8-8-2012)

Sec. 22-164. Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found on examination and tests by the city sewer inspector to meet all requirements of this article.

(Prior Code, § 17-30; Ord. No. 1747, § 17-30, 8-8-2012)

Sec. 22-165. Surface runoffs not to be connected.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

(Prior Code, § 17-31; Ord. No. 1747, § 17-31, 8-8-2012)

Sec. 22-166. Connection of building sewer.

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 as set out herein. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the city sewer inspector before installation.

(Prior Code, § 17-32; Ord. No. 1747, § 17-32, 8-8-2012)

Sec. 22-167. Inspection of sewer connections.

The applicant for the building sewer permit shall notify the city sewer inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city sewer inspector or his representative.

(Prior Code, § 17-33; Ord. No. 1747, § 17-33, 8-8-2012)

Sec. 22-168. Protecting public from sewer construction.

All excavation for building sewer installation shall be adequately guarded with barricades and lights 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.

(Prior Code, § 17-34; Ord. No. 1747, § 17-34, 8-8-2012)

Secs. 22-169—22-189. Reserved.**DIVISION 4. SEWER CONNECTIONS SPECIFICATIONS****Sec. 22-190. Types of pipes.**

- (a) The types of pipes permitted for house or building sewer connections are as follows:
 - (1) Cast iron soil pipe with rubber gasket joints—pipe shall meet federal specifications WW-P-356-1936; gasket material shall meet ASTM Specifications No. C564-65T.
 - (2) Vitrified clay—Standard strength pipe ASTM std. C-13-64T joint material shall meet ASTM Spec. No. C425-66T.
 - (3) Plastic type pipe—All plastic-type pipe shall be schedule 40 and meet ASTM Code designations.
 - (4) A.B.S.—Type 1, Sch. 40 ASTM specification A.B.S. D-2661-67 pipe shall have minimum crush strength to comply with ASTM standards.
 - (5) P.V.C.—Type 1, Sch. 40 ASTM specification P.V.C. D-2241-67 pipe shall have a minimum crush strength to comply with ASTM standards.
 - (6) D.W.V.—Type 1, Sch. 40 ASTM specification D.W.V. D-2661-68 pipe shall have a minimum crush strength to comply with ASTM standards.

(b) The above are minimum requirements only and the water and sewer superintendent may require pipe of a higher standard if, in his opinion, the job or connection so requires.
(Prior Code, § 17-41; Ord. No. 1747, § 17-41, 8-8-2012)

Sec. 22-191. Bond of contractor.

The contractor or builder who will make the sewer house connection to the new sewer main, will be required to post a bond, certified check or cash with the city in the amount of \$250.00 for each sewer connection before construction is started. If the contractor or builder desires to construct more than one sewer connection at a time, he may post a \$1,000.00 bond to cover multiple projects. Upon satisfactory completion of the work and inspection by the city sewer inspector, the bond, certified check, or cash will be released. In the event the construction is not completed in a satisfactory manner, the city may use the bond, certified check or cash money to correct the construction.

(Prior Code, § 17-45; Ord. No. 1747, § 17-45, 8-8-2012)

Sec. 22-192. Sewer house connection requirements.

New sewer house connections must hook into the sewer outlet from the house between the house and septic tank. The connection shall be made not less than three feet or more than five feet from the foundation. A cleanout must be provided near this point and preferable about three feet from the house, at each change in direction of 90 degrees or more and every 100 feet of service line length between the previous cleanout and the city main.

(Prior Code, § 17-46; Ord. No. 937, 11-1995; Ord. No. 1747, § 17-46, 8-8-2012)

Sec. 22-193. Using old septic tank.

If the building sewer is run through the old tank, there shall be no joints within the tank, and the sides of the tank where the building sewer enters and leaves shall be broken away from the pipes. The septic tank shall be cleaned out, have a drain constructed in the bottom of the tank filled with clean bank-run gravel, sand or dirt. If the existing sewer line from the building is on the opposite side of the building from the new sewer main, there are two possible ways to make the connection:

- (1) Reverse the pipes under the building so as to exit through or under the wall nearest the sewer main.
- (2) Construct the sewer lines around the house to connect to the new sewer main. In this case, cleanouts shall be placed in the pipe where any change in direction occurs of 90 degrees or more and at every 100 feet of service line length between the previous cleanout and the city main.

(Prior Code, § 17-47; Ord. No. 1747, § 17-47, 8-8-2012)

Sec. 22-194. Extending sewer lines—Generally.

Whenever an extension of the city sewer collection system is necessary in order to serve an applicant whose premises are located within the area served by the city, the city shall extend its sewer mains along any public highways which are laid out and in which grades have been established and which are dedicated to public use within its service area, provided:

- (1) Such applicant, requesting extension of the city sewer collection system, shall execute, and deliver without costs, to the city, such easement indentures as in the opinion of the city are or may be required at the time such extension is made or may be required in the future to extend the sewer collection system to an applicant located adjacent to the premises to be served by such extension.
- (2) Upon receipt by the city of a nonrefundable cash deposit which equals the estimated cost of extending the sewer collection system to the applicant, said amount shall include the cost of a performance bond as well as a one-year maintenance bond on said extension.

(Prior Code, § 17-48; Ord. No. 1747, § 17-48, 8-8-2012)

Sec. 22-195. Same—Procedures to be followed by applicants.

Where the provisions of section 22-194 are otherwise satisfied and the applicant concerned has promptly and faithfully performed in the past all contractual obligations with the city and he is desirous of directly constructing, at his own expense, a sewer line rather than depositing estimated costs with the city and having the city construct such extension, the city council may approve such extension; provided that the authorized agent of the applicant, as shown by an executed power of attorney on file with the city, executes a form of contract acceptable to the city, which, among other provisions, provides that:

- (1) In its entirety the extension is constructed in strict accord with the construction specifications, drawings and plans prepared by or on behalf of the city, and approval of such extension is given by the state department of natural resources.
- (2) All work of construction and extension shall be at the applicant's sole cost and subject to inspection by and approval of the city, that such construction is in strict accord with the extensions, construction, specifications, drawings, and plans; and all expenses incurred by the city, as a result of the extension, including but not limited to preliminary engineering, preparation of specifications, drawings, performance bond, one-year maintenance bond, plans, and inspection of construction, shall be paid by the applicant.
- (3) Upon construction being completed to the satisfaction of the city prior to connection of the extension to the existing sewer collection system, all right, title and interest therein of the applicant shall be conveyed to the city, free of lien or of any other encumbrance prior to such conveyance, and the city shall be furnished evidence satisfactory to it that the contractor and subcontractors, if any, of the extension have

paid and discharged all indebtedness incurred by them, or any of them, for materials furnished or for work and labor done in connection with and performance and completion of the extension project.

- (4) In any particular case where the applicant for sewer service can show reason of exceptional topographical or other physical conditions that the literal compliance with the requirements of the above provisions would cause practical difficulty or exceptional and undue hardship, the city council may modify such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of the above regulations or the desirable general development of the neighborhood and community in accordance with this article. Any modification thus granted shall be spread upon the minutes of the city council setting forth the reasons, which, in the opinion of the city council, justified the modification.

(Prior Code, § 17-49; Ord. No. 1747, § 17-49, 8-8-2012)

Sec. 22-196. Building sewer maintenance and repair.

(a) General. It shall be the responsibility of the property owner to construct and maintain the sewer service line from the building to the city sewer main. The property owner assumes all responsibility for maintenance and repairs for building sewers including the tap, tee or wye connection on the city main.

(b) When maintenance or repairs are required to a building sewer in city rights-of-way, the property owner shall properly excavate, repair, replace and restore any surface within the right-of-way to the satisfaction of the city sewer inspector and/or street superintendent. A no-charge permit shall be obtained by the property owner before any work commences in the right-of-way.

(c) Work in the city right-of-way shall be performed only by plumbers or contractors with current city business licenses.

(d) All work associated with building sewer maintenance and repair shall conform to the standards included in the city's general construction standards and technical specifications and any other city code, law, rules and regulations adopted.

(Ord. No. 1747, § 17-50, 8-8-2012)

Secs. 22-197—22-213. Reserved.

DIVISION 5. POLLUTION PROVISIONS

Sec. 22-214. Surface waters not to be connected to sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(Prior Code, § 17-55; Ord. No. 1747, § 17-55, 8-8-2012)

Sec. 22-215. Where to discharge surface waters.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the city sewer inspector. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city sewer inspector, to a storm sewer, combined sewer, or natural outlet.

(Prior Code, § 17-56; Ord. No. 1747, § 17-56, 8-8-2012)

Sec. 22-216. Discharges prohibited.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans, or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.
- (3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(Prior Code, § 17-57; Ord. No. 1747, § 17-57, 8-8-2012)

Sec. 22-217. Discharge of certain substances prohibited.

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the city sewer inspector that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the city sewer inspector will give consideration to such factors as the quantities of subject wastes in

relation to flows and velocities in the sewers, materials of construction of the sewers, the nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (2) Any water or waste containing fats, wax, grease, or oils (FOG), whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius) and that may separate from wastewater by gravity.
- (3) Any garbage that has not been properly shredded.
- (4) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the city sewer inspector as necessary, after treatment of the composite sewage to meet the requirements of the state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
- (5) Any waters or wastes having a pH in excess of 9.0.
- (6) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate); and
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
- (7) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(Prior Code, § 17-58; Ord. No. 1747, § 17-58, 8-8-2012)

Sec. 22-218. Options for discharging prohibitive wastes or substances.

(a) 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 enumerated in section 22-217, and which in the judgment of the city sewer inspector may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city sewer inspector 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.

- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 22-223.
 - (b) If the city sewer inspector permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city sewer inspector and subject to the requirements of all applicable codes, ordinances and laws.

(Prior Code, § 17-59; Ord. No. 1747, § 17-59, 8-8-2012)

Sec. 22-219. Grease trap installation for food service establishments (FSE).

(a) The objective of fats, oils and grease (FOG) management by removal before it reaches the sewer collection system is to minimize blockages and the resulting sanitary sewer overflows (SSOs) from occurring and to protect the publicly owned treatment works (POTW) and other residential and commercial entities tributary to the city's wastewater collection system, and ultimately protect human health and the natural resources of the state. No FSE shall discharge, cause to be discharged or place objects to be discharged along with any wastewater with an animal/vegetable FOG concentration in excess of 100 milligrams per liter (100 mg/l) as determined by the approved analytical test for total recoverable oil and grease derived from animal/vegetable sources listed in 40 CFR 136 or in concentrations and/or quantities which will harm the city treatment works as determined by the public works director or his appointed officer.

(b) Any laboratory analysis of wastewater effluent from FOG management equipment in excess of the city local limit for FOG will warrant immediate increased frequency of cleaning of FOG maintenance equipment. Should any FSE fail to meet the city limit for FOG within their wastewater effluent (100 mg/l) or be identified as the source for repeated grease buildup within the wastewater collection system, the city may require the FSE to replace any or all FOG management equipment as described in this section. If FOG management equipment is not currently in place, the city may require the installation of FOG management equipment to comply with FOG wastewater limits.

(c) All businesses, where FOG is cleaned from eating and food preparation utensils or equipment, shall be required to install an approved grease trap or interceptor to intercept any FOG before it enters the city's wastewater system. The FOG management equipment shall be continuously maintained in satisfactory and effective operation at the FSE's expense. The cleaning of the FOG equipment shall be conducted as detailed in this section. A record of all FOG management equipment maintenance activities, including cleaning records or hauled waste manifests, shall be maintained on the premises for a minimum of three years and shall be made available to the city upon request.

(d) All solid and liquid material from within the FOG interceptor shall be removed from the unit during pumping and cleaning. Decanting or discharging of removed wastewater and /or associated material back into a FOG interceptor is prohibited. The decanting process is not an acceptable cleaning procedure. All FOG interceptors shall be completely cleaned when 25 percent of the operating depth of the FOG interceptor is occupied by solids, either

above the water level or below, or at a minimum of once every three months, whichever is more frequent. Some FSEs will need to clean their outdoor FOG interceptor monthly or bi-monthly, while others might need to clean their FOG interceptor every three months. If the contact person can provide data demonstrating that less frequent cleaning of the FOG interceptor will result in FOG or related settled material less than of 25 percent of the operating depth of the FOG interceptor, the city may allow a less frequent cleaning schedule, with cleaning frequency not to exceed every six months.

(e) A contact person shall be designated by each FSE or other business that requires a grease trap and shall serve as the responsible party for all compliance with this section. The contact person name and current information, including phone number and address shall be provided to the city water quality superintendent. Any changes in the information shall be promptly provided to the city by the FSE.

(f) The contact person shall be responsible for the proper removal of all material from within the FOG management equipment, which shall comply with all federal, state and city laws concerning transport and disposal of all material from the FOG management equipment. The contact person shall also ensure that the FOG interceptor is inspected when pumped to ensure that all internal fittings and fixtures are present and in good condition and functioning properly. All material inside an interceptor, including both solids and liquids, shall be removed during pumping. All solids are to be scraped from the walls and sides of the interceptor to maintain internal volume capacity. A maintenance log shall be maintained on the premises and shall include all copies of FOG disposal manifests detailing applicable dates, hauler name and means of disposal for the material. The maintenance log shall be made available to the city for inspection upon request. Interceptor cleaning and inspection records shall be maintained at the premises for a minimum of three years and shall be made available to the city for inspection upon request.

(g) Should the party responsible for adequate operation, maintenance, and/or cleaning of a FOG interceptor and all related plumbing fail to fulfill their maintenance obligation, the city may issue an NOV to have the FOG interceptor and related equipment cleaned and/or repaired at the expense of the property owner within 14 calendar days. Upon inaction of the responsible party to correct the NOV, the city shall schedule the required cleaning to be done at the expense of the owner. The city will present a bill containing all costs of the work, including all associated enforcement and administrative costs to the responsible party. If determined necessary by the water quality superintendent, the city may curtail water service to minimize blockages and potential sanitary sewer overflows from occurring and to protect the POTW and other residential and commercial entities tributary to the city's wastewater collection system.

(h) Any facility in violation of this section shall also be held liable for any other damages or costs created by the violation to the public sewer.

(i) A grease recovery unit may be used to reduce the volumetric size of the grease trap subject to approval by the city. The grease recovery unit design, specifications, and satisfactory investigation of the unit's record of performance in a similar installation shall be considered.

(j) Where surface runoff from a garbage compactor or grease dumpster is generated, a grease interceptor shall be installed between the compactor and the POTW. All stormwater shall be prevented from entering the wastewater collection system.

(k) A grease interceptor or automatic grease removal device shall be required to receive drainage from all fixtures and equipment with the potential for grease laden waste located in all food preparation areas. Fixtures and equipment shall include pot sinks, pre-rinse sinks; soup kettles or similar devices; work stations; floor drains or sinks to which kettles are drained; mop sinks; kitchen floor drains; culinary sinks; automatic hood wash units and dishwashers without pre-rinse sinks. Grease interceptors and automatic grease removal devices shall receive waste only from fixtures and equipment that allows fats, oils or grease to be discharged. Where the lack of space or other constraints prevent the installation or replacement of a grease interceptor, one or more grease interceptors shall be permitted to be installed on or above the floor and upstream of an existing grease interceptor.

(l) The size of the grease interceptor or automatic grease removal device will depend upon the sewage flow rate, the amount of grease discharged and the number of seats and/or type of food being prepared. Sizing shall be determined in accordance with ASME A112.14.3 Appendix A, ASME 112.14.4, CSA B481.3 or PDI G101. Hydro-mechanical grease interceptors or automatic grease removal devices equipped with manholes for access shall be equipped with a manhole for each chamber on the interceptor. Hydro-mechanical grease interceptors and automatic grease removal devices shall be installed in accordance with the manufacturer's instructions. Where manufacturer's instructions are not provided, devices shall be installed in compliance with ASME A112.14.3, ASME 112.14.4, CSA B481.3 or PDI G101. Design for all grease interceptor sizing shall be completed by a licensed architect or engineer and submitted to the city and Christian County Health Department for approval.

(m) The city may require the FSE to install or replace FOG management equipment due to changes to menu and food preparation practices. Replacement equipment design and sizing shall meet all the requirements of this section.

(n) Any FSE qualified to use an indoor grease interceptor as approved under section (i) above must also utilize an inline solids trap upstream of the interceptor unit. This solids trap should be cleaned daily, at a minimum, or more often if wastewater flow is impeded in any way by solids collected within the unit. Solids removed from the solids trap are to be disposed of in the trash where other solids waste from the FSE is disposed. The solids may require bagging to prevent contact with humans or animals and to prevent contact with insects that may spread disease or endanger human health.

(o) A sampling manhole shall be installed for all required interceptors in accordance with city technical specifications standard details to monitor the entire building or individual tenant space.

(p) Where a food service establishment can document, to the satisfaction of the city's building code official, water quality superintendent and county health department, that all food preparation occurs off premises, or in such establishments as a church, senior center, or

civic club where food preparation on-site does not exceed but once per month, the applicant's engineer shall design and the establishment shall install a grease trap in conformance with the city's adopted international plumbing code. At no time shall a grease trap be installed with less than 70-pound capacity. All establishments required to install a grease trap shall install an exterior sampling pit in conformance with the city's general conditions, and technical specifications.

(q) The city, at any time, may take grab samples and conduct laboratory analysis of the wastewater discharged from any FOG management equipment to ensure compliance with city limits for FOG in wastewater (100 mg/l). City staff may visually inspect wastewater within the sampling manhole to determine the need for increased frequency of cleaning of FOG management equipment. Any buildup of grease within the sampling manhole piping shall indicate the need for an increase in cleaning frequency, regardless of any past operational procedures. Provided that authorized city personnel find through testing at the sampling manhole or by other means that food preparations or discharge of oils and grease at the establishment is in greater quantities than that which was documented at the time of its approval, the owner/operator of the establishment shall receive an NOV providing not more than 60 days to bring the property's use into conformance with the original approval or install a grease trap that is in conformance with the design and sizing as described in (j) above. If the owner/operator fails to bring the property into conformance within the notice of violation, the city may penalize such establishment by initiating a stop work order and curtail water service until such time as the establishment is brought into conformance with this article.

(r) More than one business may connect to a common FOG interceptor such as a multi-tenant building with a single sewer service, provided the grease trap sizing criteria for the common service area does not exceed the capacity of the FOG interceptor in use or planned for use as required elsewhere in this section. Each FOG generator shall be listed on a permit issued to each user of the unit. Again, failure to maintain local FOG limits will require the installation of additional FOG management equipment to maintain rule compliance as set forth in this section.

(s) Prior to permitting, FOG interceptors serving more than one FSE and/or business must provide documentation of a signed and legal maintenance agreement between responsible parties, such as but not limited to:

- (1) POA—Property owners' associations.
- (2) CAM—Common area maintenance.
- (3) Agreement between owner/operator showing physical responsibility for operation, maintenance, and cleaning of the FOG interceptor and all related piping and equipment.

(t) Chemical and /or biological additives that cause or could cause fats, oils and/or grease fractions to be released from the FOG management equipment are not permitted without the written approval of the city department of public works. The city does not endorse chemical or biological treatment, as these materials could potentially cause accumulated FOG material to liquefy only to coagulate elsewhere in the wastewater collection system.

(u) Renderable or recyclable FOG shall not be disposed into any sewer, septic tank or FOG interceptor. All renderable FOG shall be stored in a separate, covered, leak-proof container, stored out of the reach of vermin and collected by an approved waste hauler.

(v) Small quantities of FOG scraped or removed from pots, pans, dishes, grills and utensils shall be discarded into a trash receptacle for proper and legal solid waste disposal. All applicable federal, state, and city solid waste laws, rules and regulations shall apply to the disposal of solid waste containing FOG contaminated material.

(Prior Code, § 17-60; Ord. No. 1747, § 17-60, 8-8-2012; Ord. No. 1928, 1-17-2017; Ord. No. 1930, 2-20-2017)

Sec. 22-220. Preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Prior Code, § 17-61; Ord. No. 1747, § 17-61, 8-8-2012)

Sec. 22-221. Control manholes, meters and other appurtenances.

When required by the city sewer inspector, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city sewer inspector. The manhole shall be installed by the owner, at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Prior Code, § 17-62; Ord. No. 1747, § 17-62, 8-8-2012)

Sec. 22-222. Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

(Prior Code, § 17-63; Ord. No. 1747, § 17-63, 8-8-2012)

Sec. 22-223. Special agreements with industrial concerns.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern.

(Prior Code, § 17-64; Ord. No. 1747, § 17-64, 8-8-2012)

Sec. 22-224. 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 means the corporate limits of the city proper as well as any city, corporation, business, school or individual connected to or using the city sanitary sewer or stormwater system.

Cleaning agent means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

Phosphorous means elemental phosphorous.

(Ord. No. 1747, § 17-65, 8-8-2012)

Sec. 22-225. Exemptions.

(a) This division does not apply to a cleaning agent that is:

- (1) A detergent used in dairy, beverage, or food processing cleaning equipment;
- (2) A phosphoric acid product, including a sanitizer, brightener, acid cleaner or metal conditioner;
- (3) A detergent used in hospitals, veterinary hospitals or clinics or health care facilities or in agricultural production;
- (4) A detergent used by industry for metal cleaning or conditioning;
- (5) Manufactured, stored, or distributed for use or sale outside of the state;
- (6) Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or
- (7) Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.

(b) The duration of these exemptions shall be for one year after the effective date of the ordinance from which this section is derived, at which time exemptions shall be reviewed.

(Ord. No. 1747, § 17-66, 8-8-2012)

Sec. 22-226. Restrictions.

Except as provided in section 22-225, after June 1, 1994, a person shall not use, sell, manufacture, distribute or dispose within the city any cleaning agent used in a dishwashing machine, whether commercial or household, that exceeds 8.7 percent phosphorus by weight. (Ord. No. 1747, § 17-67, 8-8-2012)

Sec. 22-227. Seizure of products in violation.

The city administrator or any authorized deputies may seize any cleaning agent held for sale, distribution, or use in violation of this division. The seized cleaning agents are considered forfeited.

(Ord. No. 1747, § 17-68, 8-8-2012)

Sec. 22-228. Pretreatment discharge requirements.

Users requiring the use of pretreatment prior to discharge to the city's collection system shall be subject to the conditions, terms, and limitations as established in section 22-243 in addition to the following:

- (1) The city may require any user that, in their opinion, discharges nondomestic effluent thereby threatening the integrity of the city's treatment works, to provide sampling, analysis and/or a professional evaluation of current or predicted discharge characteristics. The sampling, analysis, and estimation of present and future discharge, shall be provided and supervised by qualified personnel and evaluated by methods acceptable to the city and in accordance with state and federal regulations. Analysis may require, but is not limited to the measurement of suspended solids and BOD concentrations. In addition, pH levels and flow rates shall be measured continuously with proper monitoring and recording equipment. Information acquired from monitoring equipment and tests shall be well documented, preserved, and made available to the city for their convenient review. The city may use information obtained through sampling and analysis as a basis to impose and raise surcharge fees and future sampling/analysis requirements. Further, the results of analysis may be used as justification to restrict or deny discharge to the city and to establish responsibility and assess fines for any damage sustained by the city's treatment works. A set of plans and specifications indicating sampling equipment locations and sampling methods shall be submitted to the city for review and consideration. Required sampling equipment shall consist of, as a minimum, a refrigerated sampler. The city must approve all sampling sites, equipment and procedures prior to allowing the discharge of effluent.
- (2) Safety and tampering prevention methods shall be outlined on plans and specifications and shall meet all city, state and federal guidelines. The city reserves the right to require additional safety and security measures if it concludes such measures are necessary to protect the welfare of their collection system and its components. The maintenance and operation of all equipment related to the discharge, storage and monitoring of waste shall be performed by qualified personnel and shall be done under the direct supervision of an experienced technician. To protect against tampering or the use, intentional or accidental, by untrained or unqualified personnel, all valves, manholes, and other items which allow for the discharge of effluent, relate to the operation of the pretreatment system, or provide access to sampling, recording and other monitoring equipment shall be locked and sufficiently secured at all times. Access to the above equipment shall be locked and sufficiently secured at all times.

Access to the abovementioned items shall be allowed only to appropriately trained personnel and selected city employees. The city shall be supplied with means to access monitoring, recording and sampling equipment and shall be allowed the opportunity to inspect and observe operation of the treatment facility and all safety and security devices at their discretion. Monitoring, sampling and other related equipment shall be supplied by the user and will be accompanied by the appropriate equipment to allow for the adjustment of flow and pH levels and for the complete and immediate shut off of discharge should levels fail to meet the city's requirements as previously established. In addition, a secondary power source independent of other power sources shall be supplied by the user and shall be capable of maintaining treatment operations and monitoring equipment, which occur prior to the discharge of effluent. The secondary power source shall be maintained in operational condition and will be immediately available in the event of any planned or unplanned disruption of the primary power source.

- (3) Users, which have waste that is considered high strength, when compared to the term defined in section 22-102, "normal domestic wastewater," shall have all components of their waste assessed and approved by the city. Any waste not approved by the city shall be separated entirely from the waste approved for discharge. The user shall provide necessary safety features which allow for the isolated containment of the unapproved waste. Disposal and handling of the unapproved waste shall be done only by appropriately qualified personnel. The waste not approved for discharge shall be stored and handled in such a manner that mishandling, spill or accidental release of the waste will not reenter the collection system either through the floor drains, sinks or other courses. Additionally, the city may also require a city representative to be present to observe and/or direct the disposal, discharge or collection of the users waste and effluent, which does not have the approval of the city. Dates and times at which the city is to be present shall be arranged and approved by the city. Reasonable reimbursement may be required to the city from the user to cover the expense associated with having city personnel on site. The discharge of waste requiring the city's supervision, without an appropriate city representative present, may result in the discontinuation of service by the city and reimbursement by the user to the city for fines and damages to the city's treatment works.
- (4) Any user discharging high strength wastewater in a volume and/or strength found to be acceptable to the city shall be subject to payment of a surcharge as indicated in section 22-243. Further, any user, under the inspection of the city and qualified individuals, which is found to be directly responsible for damage to the city's treatment works resulting in the improper discharge of waste shall be responsible in full for the financial payment of any ensuing fines and damages, or other compensations as assessed by city, county, state and/or other federal agencies. Payment of fines or other compensation shall be in an amount and schedule as set by qualified city

personnel and approved by the city council. At the city's discretion, the user may be denied services by the city indefinitely and without prior notification should the user be found responsible for damage to the treatment system.

(Prior Code, § 17-69; Ord. No. 1656, 7-2010; Ord. No. 1747, § 17-69, 8-8-2012)

Secs. 22-229—22-241. Reserved.

DIVISION 6. RATES AND CHARGES; BILLING AND COLLECTION PROCEDURES

Sec. 22-242. Determination of usage.

(a) *Basis for service charges.* Except as otherwise herein provided, service charges shall be based on one of the following:

- (1) On the quantity of water used from any source or sources of supply, as measured by a water meter or meters acceptable to the city.
- (2) On the quantity of sanitary sewage, industrial wastes, water or other liquids entering the sanitary sewage system of the city and measured by a sewage meter acceptable to the city.
- (3) On the quantity of water as determined by the city or other authorized representative of the city through a study of the particular service.
- (4) On the quantity of sanitary sewage, industrial wastes, water or other liquids entering the sanitary sewage system of the city as determined by the city or other authorized representative of the city through a study of the particular service.

(b) *Outside city sewer service.* Those users outside the city limits who receives sewer service shall pay 1½ times the city sewer rate per 1,000 gallons of water use, plus the city's minimum base charge then in effect or as may be amended.

(c) *Maintenance of meters.* Where installed, all water or sewage meters shall be maintained by the owner, at his expense, in continuous efficient operation at all times. The readings of any such meter which, in the opinion of the city, has not been so maintained will be disregarded and the city or its authorized representative shall determine the sewage volume delivered to the sanitary system of the city during the time covered by discredited meter readings.

(Prior Code, § 17-34A; Ord. No. 1167, 9-2001; Ord. No. 1527, 3-10-2008; Ord. No. 1747, § 17-34A, 8-8-2012; Ord. No. 2331, § 17, 10-23-2023)

Sec. 22-243. Sewer service charge rates.

(a) All users, other than occupied residential units, with the exception of owners of vacant, unoccupied single-family residential units as noted below shall be billed on the basis of all monthly water consumption as determined by monthly water meter reading. The city shall collect sewer service charges for the use of, and the services rendered by said sanitary sewer system from the owners or occupants of each residence, building or structure, which is

connected to the sanitary sewer system of the city. Owners of vacated, unoccupied single-family residential units, who have given notification to the utility billing department that utility service to the single-family residence is no longer required but wish to continue using their irrigation system, shall be billed for minimum base sewer service charge.

(b) The rates and charges established by this article shall be applied to the water consumption billed after this article shall have been placed in effect, except as herein otherwise provided. In order that the least sewer service charge to the residential water consumers for water used to maintain lawns, gardens, flowers, shrubs, trees, etc., water usage shall be derived from water consumption recorded in periods when such activities are reduced.

(c) For the months of January, February and March, the basis of the occupied residential bills shall be based on the current monthly water consumption. In computing the residential bills for the remaining nine months consisting of April, May, June, July, August, September, October, November and December, the average of the monthly meter reading taken between January and March shall be used.

(d) In cases where a residence first becomes subject to the sewer services charges established herein and that date is after the meter reading date in May and no water meter reading was taken before such date, the owner or occupant of such residence shall be billed the customer service charge plus a volume charge, as determined by the city until a basis can be established as herein provided.

(e) In multiple housing complexes or combinations of multiple housing units, apartment housing units, trailer park pads or spaces, the number of users shall be the number of dwelling units connected to the sewer system whether served by individual water meters or by a single master water meter or private water supply. Where a single water meter or private water supply serves multiple housing complexes, the number of dwelling units shall be used in computing charges, whether or not all units are occupied.

(f) The charges per month shall be as set forth herein:

(1) *Monthly base rates.*

- a. Beginning January 1 ,2023, the base rate shall be \$13.25.
- b. Beginning January 1, 2024, the base rate shall be \$13.75.
- c. Beginning January 1, 2025, the base rate shall be \$14.25.
- d. Beginning January 1, 2026, the base rate shall be \$14.75.

(2) *Rates usage.* In addition to the base rates established herein, an additional rate, as established below, shall be charged:

- a. Beginning January 1, 2023, the usage rate shall be \$4.14 per 1,000 gallons of water consumption.
- b. Beginning January 1, 2024, the usage rate shall be \$4.18 per 1,000 gallons of water consumption.

- c. Beginning January 1, 2025, the usage rate shall be \$4.23 per 1,000 gallons of water consumption;
 - d. Beginning January 1, 2026, the usage rate shall be \$4.27 per 1,000 gallons of water consumption.
- (g) Except as otherwise provided herein, the sewer service charge shall be based on the quantity of water used on or in the property or premises subject to such charges and shall be computed by applying the rates established; and shall be payable as herein provided.

(Prior Code, § 17-35; Ord. No. 1459, 11-2006; Ord. No. 1549, 9-2008; Ord. No. 1697, 8-2011; Ord. No. 1747, § 17-35, 8-8-2012; Ord. No. 2331, § 17, 10-23-2023)

Sec. 22-244. Extra charges.

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 not only on volume but, also on the strength and character of sewage and wastes which it is required to treat and dispose of. 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 city's sanitary sewage system in such a manner and by such method as it may deem practicable in the light of the conditions and attending circumstances of the case in order to determine the proper charge.

- (1) *Extra charges for discharge of excess BOD.* Any customer who discharges sewage having a BOD concentration in excess of 280 mg/l shall pay an additional charge. Such additional charges shall be determined by the director of public works subject to review and approval by the city administrator and shall include, but not be limited to costs of labor, chemicals, and equipment directly used in correcting the conditions.
- (2) *Extra charges for discharge of excess suspended solids.* Any customer who discharges sewage having a suspended solids concentration in excess of 300 mg/l shall pay an additional charge. Such additional charges shall be determined by the director of public works subject to review and approval by the city administrator and shall include, but not be limited to costs of labor, chemicals, and equipment directly used in correcting the conditions.
- (3) *Extra charges for discharge of toxic substance.* any customer who discharges a toxic substance which is deleterious to the treatment process or to sludge utilization shall be liable for all costs incurred by the city in returning the treatment process or sludge to its proper condition. Such additional charges shall be determined by the director of public works subject to review and approval by the city administrator and shall include, but not be limited to costs of labor, chemicals, and equipment directly used in correcting the toxic conditions.

(Prior Code, § 17-36; Ord. No. 1167, 9-2001; Ord. No. 1747, § 17-36, 8-8-2012; Ord. No. 2331, § 17, 10-23-2023)

Sec. 22-245. Method of billing.

- (a) All sewer service charges established by this division shall be a part of, but noted as a separate item on the water bill of each user and shall be billed, collected and become delinquent at the same time and in the same manner as such water bill. Any user of the city sewer system who is delinquent in the payment of the service charge provided herein shall be deemed to be delinquent in the payment of the sewer bill and shall be subject to being disconnected from the sewer system in the same manner and at the same time as provided in other ordinances for disconnection from the water system. No person who has been disconnected from the sewer system shall be again connected thereto until he has paid to the city all delinquent sewer bills in full together with a reconnect charge in the amount established by section 2-151 of this Code. Disconnection shall be by removal of the water meter or physical blockage or disconnection of the building sewer service line.
- (b) The rates established by this division may be billed to the tenants occupying the property served, unless otherwise requested in writing by the property owners, but such billings shall in no way relieve the owner from the liability in the event payment is not made as herein required.
- (c) The owners of tenant-occupied property shall have the right to examine the collection records of the city for the purpose of determining whether such rates and charges have been paid by such tenants; provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(Prior Code, § 17-37; Ord. No. 1167, 9-2001; Ord. No. 1747, § 17-37, 8-8-2012; Ord. No. 2331, § 17, 10-23-2023)

Secs. 22-246—22-268. Reserved.**ARTICLE IV. ELECTRICITY****DIVISION 1. GENERALLY****Sec. 22-269. Definitions; scope, application and meaning of terms.**

- (a) 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:

City utilities, in context, means the city together with its officers, agents, and employees; and/or the city electric department together with its officers, agents and employees.

Customer includes and refers to any person, persons, firm, agency or corporation irrespective of gender, who may be a customer or an applicant for electric service.

Meter means a mechanical device or devices to measure and record the quantity of electricity supplied to the customer. City utilities utilize various meter types to accurately measure usage based on the customer load type.

- (1) *Secondary meter* means a meter attached on the outlet side of a transformer which measures energy at the same voltage served to the customer. This is a typical meter for residential and most commercial applications.
- (2) *Primary meter* means a meter attached at a point on the utilities primary system to meter power at the primary voltage for certain industrial customer applications.
- (3) *Demand meter* can be a separate meter, or, as a function of a combined meter, this device measures load demand used by the customer.

Notice to city utilities, as used herein, means written notice addressed to: Electric Superintendent, City Utilities, P.O. Box 395, Nixa, Missouri, and deposited in the United States mail, postage prepaid.

Point of delivery is the location where transfer of energy possession occurs, usually at a point where customer and city utilities facilities connect. See section 22-132.

- (b) Nothing in these rules and regulations shall be construed to impose or place upon city utilities any obligation, responsibility or duty to inspect, maintain and/or repair any electric or other wiring, apparatus, appliance or equipment owned by the customer.
- (c) No agent, employee or representative of city utilities shall have any right or authority to make any promise, commitment or agreement not expressly authorized by these rules and regulations.

(Prior Code, § 7-1; Ord. No. 1683, 3-14-2011)

Sec. 22-270. Applications and contracts for service.

- (a) All contracts for electric service shall be subject to all rules and regulations heretofore or hereafter adopted or promulgated by city utilities, and to all applicable ordinances (or provisions thereof) of the city which may be now or hereafter in force.
- (b) All applicants for electric service shall sign in advance at time of planning or start of construction such form or service contract as may be acceptable to city utilities.
- (c) City utilities will not supply electric service until the customer's application for service shall have been approved by city utilities, until all necessary permits shall have been obtained by the customer, until inspection has been approved as set forth in subsection (g) of this section, and until city utilities shall find it practicable to render service.
- (d) All applications for electric service shall be signed in the true name of the customer actually to receive and use such service, unless otherwise permitted by city utilities in its discretion. The use of a fictitious name by the prospective customer shall be sufficient reason for refusal and/or termination of service.

(e) Any change in the identity of the contracting customer at the premises shall require a new application and city utilities may discontinue the electric supply until such new application has been made and accepted by city utilities.

(f) When it may appear to city utilities that requested electric service will be temporary, city utilities may, at its option, either furnish or decline to furnish such service. If city utilities elects to furnish such service, the applicant for service shall pay to the city utilities, in advance, the estimated cost of furnishing such service, including the cost of all labor to install and remove materials and supervision required, less the value determined by city utilities for such materials and equipment if any as may be removed.

(g) All electric wiring and equipment on the customer's premises must be acceptable to city utilities and no electrical service, either within or outside the city limits shall be furnished unless and until the wiring and equipment are inspected by the building inspector, and city

utilities receives an approval that it is found to meet all codes and standards adopted by the city council, provided, however, that city utilities shall not be deemed to have assumed hereby any duty or responsibility to inspect, repair or maintain any wiring or equipment on the customer's side of the point of delivery as hereinafter located and defined in these rules and regulations.

(h) Permanently assigned address numbers shall be obtained before application for service is accepted and shall be suitably displayed on the property in a visible location before the electric service is installed. No meter is to be set at a house without proper and correct identification. If a house number or identification is changed for any reason, city utilities shall be notified of such change.

(Prior Code, § 7-2; Ord. No. 1683, 3-14-2011)

Sec. 22-271. Refusal of service.

City utilities shall have the right and privilege to discontinue electric service to any customer and/or refuse electric service to any customer, whether theretofore served or not, for any reason which, in the sole judgment and discretion of city utilities, may be valid or sufficient.

(Prior Code, § 7-5; Ord. No. 1683, 3-14-2011)

Sec. 22-272. Discontinuance of service at customer's request.

(a) Service will be temporarily discontinued on verbal notice of the customer, or his agent, for a period of 24 hours or less for the repairs or alterations without in any way affecting the existing contract. If such service is rendered, a reasonable charge in such amount as may be determined by city utilities as reasonable to cover costs incurred may be assessed.

(b) Service will be temporarily discontinued for a period in excess of 24 hours upon the written order of the customer without in any way affecting the existing contract, providing, however, a reconnect charge in such amount as may be determined by city utilities as reasonable to cover costs incurred may be assessed.

(c) Service will be permanently discontinued at the customer's request when proper notification is made to city utilities. Upon receipt of such notification, city utilities shall read the customer's meter and charges for electric service rendered up to and including the time of cutoff shall be computed and will become due and payable immediately.

(Prior Code, § 7-6; Ord. No. 1683, 3-14-2011)

Sec. 22-273. Access to premises.

Employees of city utilities shall have the right to enter upon the premises of any electric customer at any time during ordinary business hours for the purpose of reading meters, examining, testing, changing and/or moving any electrical equipment, meters, apparatus and/or wiring of city utilities, making a connected load count, or measuring the customer's maximum electric demand.

(Prior Code, § 7-7; Ord. No. 1683, 3-14-2011)

Sec. 22-274. Limitation of responsibility of city utilities.

- (a) Except as provided under certain primary metered rate services, city utilities shall have no duty, obligation or responsibility with respect to electric wiring, fixtures, equipment or apparatus on the premises of an electric customer, other than to provide an electric meter and a service connection from the distribution system of city utilities to the point of delivery, and in no circumstance, past the building wall.
- (b) The customer shall notify city utilities immediately of any change or changes in connected load or in electric equipment on the customer's premises, which might affect electric service to such customer or to any other electric customer of city utilities; and city utilities shall have no duty, obligation or responsibility arising out of or resulting from the customer's failure so to notify city utilities.
- (c) City utilities shall not be liable for any injury, damage or loss resulting from the use of electric energy on the customer's premises, or from the presence, location, maintenance or use of any wiring, fixtures or equipment on the customer's premises.
- (d) Nothing shall be attached or fastened to, or placed upon, any poles, wires, fixtures or equipment of city utilities unless prior permission in writing shall have been given by the management of city utilities; and city utilities shall not be liable for any injury, damage or loss arising out of or resulting from any such attachment to its poles, wires, fixtures or equipment.
(Prior Code, § 7-8; Ord. No. 1683, 3-14-2011)

Sec. 22-275. Customer's responsibility.

- (a) The customer shall be liable for all damage to or destruction of any city utilities property caused directly or indirectly by the customer, their officers, agents or employees.
- (b) Each customer shall promptly notify city utilities of any defect in electric wiring, equipment or apparatus of city utilities or of any existing condition, which might affect electric service to the customer or might be dangerous to person or property. All such notices and all complaints concerning electric service by city utilities shall be made in writing to city utilities at its principal office.
- (c) If any electric customer has on his premises any wring, connection, apparatus or device which prevents the electric meter or meters on such premises from registering or recording properly all energy used or to be used or which enables such customer to obtain or use any electric energy without the same having been registered and/or recorded properly by an electric meter or meters of city utilities, or if any electric customer shall fail or refuse to observe, fulfill and comply faithfully with all rules and regulations heretofore or hereafter promulgated by city utilities, city utilities shall have the right to discontinue electric service to such customer and to terminate any contract or contracts with such customer immediately and without notice to the customer.

(d) City utilities may, at its option, refuse to render electric service to any electric customer whose service has been discontinued; and in the event of such discontinuance of service, service will not be restored until:

- (1) The customer shall have paid in full for all electric energy theretofore furnished by city utilities to the customer's premises (including all energy which has not been registered or recorded properly by an electric meter or meters of city utilities) and has paid for all damage to electric meters or other equipment, facilities or property of city utilities;
- (2) Until the customer's wiring and service installations shall, at the customer's sole risk, cost and expense, have been placed in such condition as shall be acceptable to city utilities; and
- (3) Until all other service related fees (including but not limited to reconnect fees, return check fees and etc.) have been paid in full.

(Prior Code, § 7-9; Ord. No. 1683, 3-14-2011)

Sec. 22-276. Change in customer's load.

No electric customer shall increase his connected electric load more than 20 percent without prior notice to and consent by city utilities. Increased loads may require city utilities to upgrade equipment, wires, metering or other facilities on the utility system at the customer's expense.

(Prior Code, § 7-10; Ord. No. 1683, 3-14-2011)

Sec. 22-277. Continuity of service.

City utilities will use ordinary diligence in rendering electric service but does not guarantee constant or continuous service. By application for electric service, each electric customer shall be deemed hereby to have agreed:

- (1) Utilities may interrupt or suspend service at any time, either with or without notice, for inspection, repair, maintenance, alteration or change on the customer's premises or elsewhere; and
- (2) City utilities shall have no duty, obligation, responsibility or liability for or by reason of any such interruption or suspension of service, or for any damage or loss resulting therefrom.

(Prior Code, § 7-11; Ord. No. 1683, 3-14-2011)

Sec. 22-278. Point of delivery and service entrance.

(a) It shall be the sole responsibility of each prospective customer to obtain from city utilities information as to the point at which city utilities will attach its service wires to customer's premises, and thereafter to wire said premises, in accordance with such information. City utilities shall have no responsibility, duty or obligation to furnish service at any point other than that designated by city utilities.

(b) The point of delivery for overhead service furnished by city utilities to any electric customer shall be at the point where the wire of city utilities first attach to wires on the customer's premises. This point is typically at the top of the meter mast.

(c) The point of delivery for underground service furnished by city utilities to any electric customer shall be at the point where the wires of city utilities first attach to secondary wires on the customer's premises. This point is typically at the sweep where customers wire enters the inside transformer or junction box.

(d) The maximum length of overhead service wires which will be run to a residential or commercial customer will be established by city utilities and meet all code requirements adopted by the city council.

(e) Secondary wire size and length for all underground service wires shall meet minimum standards set forth in the table below:

<i>Cable Size</i>	<i>Cable Ampacity</i>	<i>Service Size</i>		
		<i>100 Amps</i>	<i>200 Amps</i>	<i>400 Amps</i>
#2 Triplex	120	110 feet	—	—
1/0 Triplex	160	175 feet	85 feet	—
4/0 Triplex	240	320 feet	160 feet	80 feet

(f) All services above 400 amps or locations where runs longer than the maximum are necessary, the customer may provide wire or hard start devices at a size acceptable to city utilities or provide easement on the property for city utilities primary service and transformer equipment to be placed on the property at an acceptable location. All expenses for city utilities facilities extension to meet this section will be the responsibility of the customer.

- (1) City utilities will permit the installation of service at any point on a building, residential or commercial, so long as the service wires are not required to cross a ridge of the roof, and that they meet other provisions of applicable codes adopted by the city council. City utilities will not be required to build additional line facilities in order to reduce customer-wiring costs to serve a prospective customer when existing lines can be used. Where services are installed which will require the service wires to overhang the roof, the weather head shall be located at a sufficient height above the roof to meet all applicable codes adopted by the city council.
- (2) All overhead service wires carrying nominal voltage of 115 and/or 230, where single-phase or three-phase is supplied, shall be run from the point of delivery to the service switch and protective cabinet in continuous rigid metallic conduit which shall enter and be made fast to the protective cabinet by means of bushing and lock-nuts.
- (3) All service wires shall conform, in size and in conductivity, to all requirements of the codes adopted by the city council.
- (4) The point of service entrance for low voltage service shall be the point at which service wires enter the customer's conduit. This point of service shall be not less than 12 feet above the ground in installations where city utilities' service wires may be attached

above the customer's conduit. Where mast-type services are installed which require service wires to be attached below the customer's weather heads, such service mast shall consist of rigid metallic conduit with a minimum inside diameter of two inches, and the height of the weatherhead shall be such that not less than 12 feet from lower service wire to ground elevation will be provided.

(Prior Code, § 7-12; Ord. No. 1683, 3-14-2011)

Sec. 22-279. Meter location and installation.

- (a) Meter locations and installation shall comply with all codes, ordinances and policies adopted by the city council.
- (b) Each customer shall provide a meter location on the side of the building to be served, which is satisfactory and acceptable to the electric department where metering equipment furnished by the electric department will be installed. All meters installed for single-family residences shall be located on the exterior of a side outside wall where meter reading and repair can be accomplished without entering the residence. When remodeling results in enclosing the existing meter location, the customer shall re-wire the meter location to a side outside wall. All multiple meter installations for multifamily residences and apartments shall be located on the exterior of a side outside wall, except that an inside location will be permitted, provided access to the meters is available at all times.
- (c) The customer will furnish meter bases with a minimum capacity of 200 amps for detachable type meters. The meter base must be installed in the service line ahead of all switches.
- (d) No meters shall be removed or relocated and no meter seal shall be broken other than by an authorized employee of city utilities.
- (e) A meter will not be installed on or in an unfinished portion of any building except under special arrangement with city utilities for the purpose of furnishing temporary service.
- (f) Any meter installation on the exterior of a building or other structure shall be at least five feet above the ground.
- (g) When there are two or more meter installations in the same building, all such meters shall, whenever possible, be grouped at the same point which shall be accessible to all tenants or occupants of the building.
- (h) When a meter is mounted on a pole (either owned by city utilities or a customer), the customer shall, at his expense, furnish and install all conduit and wiring to a point not more than one foot below the low voltage distribution lines of city utilities. City utilities may restrict the installation of customer-owned conduit, switches or other electrical devices on city utilities' poles where such installation would result in hazards to city utilities' personnel and/or facilities.
- (i) All wires on the load side of a meter shall run directly to a point of distribution and shall not run back through the main line switch cabinet.

(j) Only one service entrance connection for lighting and for each class of power shall be installed in any building. Where a customer may desire separate metering facilities for different portions of any building or premises, the customer shall provide a place, suitable and acceptable to city utilities, for the service switches and all metering equipment for the entire building or premises. All meters for the same building or premises must be located in the same area, grouped as close as practical. This meter location area must be accessible to all tenants or occupants of the building, and to city utilities' employees for the purpose of inspection and maintenance. Multifamily residences and establishments consisting of a group of buildings, such as tourist courts, shopping centers, apartment houses and institutions, will be served by a single service and single meter for each class of service provided. This rule may be waived for the convenience of city utilities.

(k) For low voltage installations in excess of 200 amperes per phase, the customer will furnish the current transformer cabinet which shall be located within ten feet of the meter and shall be mounted by the customer in such manner as may be satisfactory and acceptable to city utilities. Housing for all high voltage metering installations, i.e., primary metering, will be provided by city utilities.

(Prior Code, § 7-13; Ord. No. 1683, 3-14-2011)

Sec. 22-280. Service switch and protective cabinet.

(a) Each service switch and protective cabinet shall be installed as near to the point of delivery as shall be practicable; and unless the meter is installed in a substantial cabinet or on a regular switchboard, it must be not less than 5½ feet and not more than seven feet above the floor.

(b) Each service switch and protective cabinet shall be installed in a location where such switch and cabinet shall be free from vibration, damage from mechanical injury, excessive heat, moisture, injurious fumes, etc., and where such switch cabinet shall be readily accessible to employees of city utilities with minimum inconvenience to occupants of premises and in a location which shall be satisfactory and acceptable to city utilities.

(c) All service entrance switches shall be of totally enclosed, externally operated type; and if installed out-of-doors, shall be weatherproof and shall be installed at a point not more than six feet above the ground.

(d) The service entrance switch shall be installed in a protective steel box having facilities for sealing the box closed, for sealing the switch open, and for testing the meter. City utilities shall have the right to designate and specify the type of protective cabinet for any particular service, or to require any customer to change the type of protective cabinet being used.

(e) On three-wire, single-phase service, the neutral wire shall not be fused.

(Prior Code, § 7-14; Ord. No. 1683, 3-14-2011)

Sec. 22-281. Grounding of secondary and service wires.

All new 115-volt, two-wire and 115-230 volt, three-wire, single-phase installations shall be grounded at the meter location on the line side of the entrance switch and cutout. The size of the ground wire and the method of installation thereof shall be in accordance with all codes adopted by the city council.

(Prior Code, § 7-15; Ord. No. 1683, 3-14-2011)

Sec. 22-282. Service connections.

(a) The term "service connection" shall mean that portion of the distribution system installed for the particular use of any given customer, to-wit, that portion of the distribution system extending from the nearest distribution line of city utilities to the point of delivery and shall not include any lines, poles or facilities located on streets, alleys, public places or rights-of-way of city utilities.

(b) City utilities shall own all aerial service connections.

(c) All underground services shall be at minimum, two-inch schedule 40 PVC with glued joints and 36-inch sweep ells on all corners and up to pole, transformer or other service device and meter.

(d) The building address number must be stamped on the meter base if more than one meter appears at that location. The address number must be on the structure before the electric service will be hooked up.

(Prior Code, § 7-16; Ord. No. 1683, 3-14-2011)

Sec. 22-283. Line extensions.

(a) Where new pole and line construction is deemed necessary to serve an applicant or group of applicants, such applicant or group of applicants shall, as part of the consideration for city utilities extending its electric distribution system, execute and deliver, without cost, to city utilities such easement indentures as in the opinion of city utilities are, or may be required at the time the extension is made, or may be required in the future to extend the electric distribution system to an applicant or a group of applicants located adjacent to the premises to be served by such extension, and he or they may be required to contribute, in advance, that part of the estimated cost of construction in excess of the amount which, in the judgment of city utilities may be justified by the estimated average annual usage of the prospective customer. Provision for refund shall be made on such bases as city utilities may determine to be equitable and proper.

(b) City utilities shall not own, set poles on, or run wires across private lots or property without proper easements or rights-of-way provided by the applicant to the city for that purpose.

(Prior Code, § 7-17; Ord. No. 1683, 3-14-2011)

Sec. 22-284. Authority to trim, remove, and control vegetation which could impact the city's electric distribution system.

(a) *Purpose.* The city trims, removes limbs, and removes trees and other vegetation along the easements and public rights-of-way of the city so that trees and other vegetation do not come in contact with, prevent access to, or otherwise disrupt, or are apt to disrupt, the city's electric transmission and distribution system. The purpose of managing vegetation in such a way is to ensure the public's safety and provide a reliable electric service for the customers of the city's electric utility. For this reason, the city must limit the impact of vegetation as it relates to the propensity of unmanaged vegetation to cause service disruptions of the city's electric system. This section is established to provide authority for director of public works, or their authorized designee, to ensure responsible management of the city's electric transmission and distribution system and to affirm the city's management responsibilities of maintaining and operating the electric transmission and distribution system in a safe, reliable, and cost-effective manner while balancing the interests of property owners in maintaining trees and other vegetation on their property.

(b) *Authority to manage vegetation—Procedures related thereto.* The director of public works, or their authorized designee, shall be authorized to trim, remove, or otherwise control trees and other vegetation which pose a hazard to the continued, safe, and reliable operation of the city's electric transmission or distribution lines when:

- (1) Such trees or other vegetation are within the legal description of a recorded easement;
- (2) In the absence of a recorded easement, such trees or other vegetation are:
 - a. Within ten feet, plus one-half the length of any attached cross arm, of either side of the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line to line and located within the limits of the city; or
 - b. Within thirty feet of either side of the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line to line and located outside the limits of the city; or
 - c. Within fifty feet of either side of the centerline of electricity lines potentially energized between 34.5 and one hundred kilovolts measured line to line; or
 - d. Within the greater of the following for any electricity lines potentially energized at one hundred kilovolts or more measured line to line; seventy-five feet to either side of the center line, or any required clearance adopted by either the Federal Energy Regulatory Commission or an Electric Reliability Organization authorized by the Energy Policy Act of 2005, 16 U.S.C Section 824o.
- (3) The trimming, removal, or controlling of any trees or other vegetation is necessary to maintain the continued safe and reliable operation of the city's electric transmission or distribution lines; or

(4) The trimming or removal of any tree or vegetation of sufficient height when such tree or vegetation, if it were to fall, would threaten the integrity and safety of the city's electric transmission or distribution lines and would pose a hazard to the continued safe and reliable operation of said lines, however, prior to the removal of any tree or vegetation under the authority of this subsection 22-284(b)(4), the city shall notify the owner or occupier of land, if available, at least fourteen days prior to the removal unless the director of public works, or their authorized designee, deems the removal to be immediately necessary to continue the safe and reliable operation of the city's electricity lines, or such removal or trimming is required due to a major weather event or other emergency situation.

(c) *City to remove partially trimmed tree—When.* If any tree which is partially trimmed pursuant to the authority of this section dies within three months as a result of said trimming, the owner or occupier of land upon which the tree was trimmed may request in writing that the city remove the tree at the city's expense. Such request shall be acted upon within ninety days.

(d) *Delegation.* The director of public works, or their designee, is authorized and empowered to carry out the provisions of this section and may promulgate additional policies and procedures therewith provided that said additional policies and procedures do not conflict with the provisions of this section.

(Prior Code, § 7-18; Ord. No. 1683, 3-14-2011; Ord. No. 2296, § 1, 2-27-2023)

Sec. 22-285. Power installations.

(a) Before purchasing any motor or power-consuming appliance to be supplied from the system of city utilities or before installing any power service, any customer or prospective customer should confer with city utilities concerning such motor or other power-consuming appliance which the customer proposes to purchase or install, and concerning the starting or controlling equipment therefor, for city utilities specifically reserves and shall have the right to approve the character, type, voltage, frequency and phase of any power installation to be served from its system.

(b) Any motor or other power-consuming appliance with a rating of 20 HP or more must have inherent characteristics or must be equipped with such starting or controlling devices as will limit the starting current under all conditions to a value not exceeding three times the full load running current; however, these requirements may be waived for such period of time as city utilities determines if there is no adverse effect on the quality of services afforded other customers.

(Prior Code, § 7-19; Ord. No. 1683, 3-14-2011)

Sec. 22-286. Transformer installations and transformer vaults.

(a) Where a customer's electrical load is such that it cannot be served properly from a conventional 115-230 volt service connection and where adequate and suitable space for installation of transformers in an adjacent street or alley is not available, the customer shall

furnish and set apart, without charge, a space on his premises which, in the opinion of city utilities, shall be satisfactory and adequate for installation of the necessary transformers to serve such customer and provide city utilities with proper recorded easements for future repair or maintenance activities on such equipment.

(b) City utilities will provide, furnish and install transformers for electric service for all customers except those customers who qualify for service under the primary rate schedule. Transformers to provide electric service for customers applying for primary rate service shall be furnished and installed by the customer at his sole cost and expense, except under special conditions as may be approved by city utilities. All installations shall be completed under the direction of the electric superintendent.

(Prior Code, § 7-20; Ord. No. 1683, 3-14-2011)

Sec. 22-287. Moving of distribution lines and equipment.

If city utilities is requested to move, relocate or rebuild any of its lines, poles or equipment for any reason which would benefit any person, persons, firm or corporation other than city utilities, the cost of such moving, relocating and/or rebuilding shall be paid in full by such person, persons, firms or corporation who may request such moving, relocating and/or rebuilding. Before city utilities will move, relocate or rebuild any line, pole or other equipment, a deposit in such amount as may be fixed by city utilities, which shall be adequate and sufficient to cover in full the estimated cost of such moving, relocating or rebuilding shall be made with city utilities.

(Prior Code, § 7-22; Ord. No. 1683, 3-14-2011)

Sec. 22-288. Tampering with utilities.

(a) A person commits the offense of tampering in the second degree if he:

- (1) Tampers or makes connection with property of a utility; or
- (2) Tampers with, or causes to be tampered with, any meter or other property of the electric utility, the effect of which tampering is either:
 - a. To prevent the proper measuring of electric service; or
 - b. To permit the diversion of any electric service.

(b) In any prosecution under subsections (1) or (2) of subsection (a), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric service, with one or more of the effects described in subsections (1) or (2) of subsection (a), shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subsections by the person or persons who use or receive the direct benefit of the electric service.

(c) Tampering in the second degree is a misdemeanor.

(Ord. No. 1756, 10-15-2012)

Secs. 22-289—22-307. Reserved.**DIVISION 2. RATES AND CHARGES; BILLING AND COLLECTION PROCEDURES****Sec. 22-308. Electric deposits.**

- (a) All users of electric service shall pay a refundable deposit with the city as set forth herein. Said deposits shall be provided by the user prior to the time electric service is obtained by the user. In the event any bill issued by the city for electric service becomes delinquent the city may apply any deposit toward any outstanding balance.
- (b) For residential users of electric service, the deposit amount shall be \$100.00 for homeowners and \$250.00 for tenants.
- (c) All residential users of electric service who authorize the city to collect their electric service payments via an automated clearing house [and] customers that participate in the ACH (auto-pay) program and who have not had any missed or late payments for electric service for a consecutive 12-month period shall be eligible to have their deposits refunded as a credit to their utility account.
- (d) Commercial users of electric service shall provide a deposit in an amount equal to two times their estimated electric bill before the user obtains electric service from the city. The city may use the funds of the deposit, or the security referenced herein towards any delinquent bills for electric service of the user.
 - (1) A commercial user of electric service may opt to not provide a deposit when said user authorizes the city to utilize direct banking withdrawal for their monthly electric service payments and when the user provides to the city a security in the amount of the required deposit and lists the city as a beneficiary of such security.
 - (2) Whenever a banking withdrawal is returned for insufficient funds, the commercial user shall provide a deposit in an amount calculated at two times the user's average electric bill. If the user fails to provide the replacement deposit, then they may be subject to disconnect as provided herein for failing to maintain a deposit with the city.
- (e) Deposits required to be provided by this section shall not bear interest.
- (f) The city may disconnect electric service without notice to any electric service user who fails to make or maintain the applicable deposit required herein.
- (g) The deposits required by this section shall be refunded at the termination of electric service after all charges that are due and payable by the user have been paid. Deposits shall be applied to the user's final bill when the electric service user disconnects their service with the city, any remaining balance shall be returned to the user. Refunds shall be issued in the name of the account holder only.

- (h) The deposits required herein may be waived for the following situations:
- (1) Where the service address is vacant, and the property owner requests a waiver from the deposit requirement in writing.
 - (2) Where the service address is in the possession of a bank or other financial institution due to foreclosure and evidence of such is provided to the city.
- (i) Upon notification of a bankruptcy filing for an electric service user, the city shall make a final reading of the user's electric meter. Said user's account shall be closed, any deposits or securities shall be applied to any outstanding electric service charges. The electric service user's account shall remain inactive until further notice from the bankruptcy court as to the disposition of the outstanding balance. A post-bankruptcy account may be opened for a user who requires electric services. All charges after the bankruptcy notification shall be posted to the post-bankruptcy account. A deposit of two times the average monthly electric bill shall be required as an electric deposit for a post-bankruptcy account.
- (j) When the provisions of this section call for estimating the electric service bill of a user to determine the amount of a deposit, the deposit amount shall be determined by calculating the average of the last 12 months of electric usage at the service address. If the service address does not have at least 12 months of prior usage, then the deposit amount shall be determined by calculating the average of the total months of service for the service address. (Prior Code, § 7-3; Ord. No. 1683, 3-14-2011; Ord. No. 1715, 12-19-2011; Ord. No. 1735, 4-16-2012; Ord. No. 1869, 7-20-2015; Ord. No. 2060, § I, 6-24-2019; Ord. No. 2262, § 4, 6-27-2022)

Sec. 22-309. Testing of meters.

- (a) City utilities may remove any meter for routine tests, repairs and replacement.
- (b) Whenever, upon test by city utilities, any electric meter is found to have an average error of not more than two percent, such meter shall be considered to be accurate and correct, and no adjustment shall be made in any charge or bill for service prior to the day of such test. If, upon test by city utilities, any electric meter shall be found to have an average error of more than two percent, such meter shall be corrected or replaced, at the option of city utilities, and an approximate correction of error found upon test of such meter shall be made in the bills or charges for electric service measured through said meter during a period of not more than 60 days prior to the date of such test.
- (c) Upon discovery of an electric meter that has failed to register, the customer served through said meter shall be billed by city utilities, and shall pay to city utilities, a charge for electric energy delivered during such period of time which shall be estimated and computed by city utilities on the basis of:
 - (1) The electric energy accurately recorded by such meter during the period of 30 days preceding or succeeding the time when such meter was discovered to have failed to register or before the same was found to be in error, except where failure to register was due to tampering with said metering equipment; and

- (2) Any and all other available information pertaining to proper determination of the customer's usage and load.

(Prior Code, § 7-21; Ord. No. 1683, 3-14-2011)

Sec. 22-310. Rates for electric service.

Rates and charges for electric service shall be as established as set forth herein:

- (a) *Residential service rate.* The following residential service rate shall only apply to service to residential dwelling units. No other service rate shall be available for service to which the residential rate applies. The monthly rates shall be as follows:

- (1) *2022 residential service rate.* Beginning March 1, 2022, the following monthly rates shall be charged:
- A service availability charge of \$15.00 per month shall be assessed for the provision of this type of electric service.
 - The monthly rate per kilowatt-hour for residential service shall be \$0.10500.
- (2) *2023 residential service rate.* Beginning January 1, 2023, the following monthly rates shall be charged:
- A service availability charge of \$15.15 per month shall be assessed for the provision of this type of electric service.
 - The monthly rate per kilowatt-hour for residential service shall be \$0.10660.
- (3) *2024 residential service rate.* Beginning January 1, 2024, the following monthly rates shall be charged:
- A service availability charge of \$15.30 per month shall be assessed for the provision of this type of electric service.
 - The monthly rate per kilowatt-hour for residential service shall be \$0.10820.
- (4) *2025 residential service rate.* Beginning January 1, 2025, the following monthly rates shall be charged:
- A service availability charge of \$15.45 per month shall be assessed for the provision of this type of electric service.
 - The monthly rate per kilowatt-hour for residential service shall be \$0.10980.
- (5) *2026 residential service rate.* Beginning January 1, 2026, the following monthly rates shall be charged:
- A service availability charge of \$15.60 per month shall be assessed for the provision of this type of electric service.
 - The monthly rate per kilowatt-hour for residential service shall be \$0.11140.

(b) *Small commercial rate.* The following small commercial service rate shall only apply to small commercial customers. Small commercial customers are defined as non-residential business electric consumers who obtain their electric service via single-phase or three-phase and whose demand for electric power is less than 75 kilowatts. No other service rate shall be available for service to which the small commercial rate applies. The monthly rates shall be as follows:

- (1) *2022 small commercial service rate.* Beginning March 1, 2022, the following monthly rates shall be charged:
 - a. A service availability charge of \$15.00 per month shall be assessed for the provision of a single-phase electric service of this type.
 - b. A service availability charge of \$33.00 per month shall be assessed for the provision of a three-phase electric service of this type.
 - c. The monthly rate per kilowatt-hour for small commercial service shall be \$0.1015.
- (2) *2023 small commercial service rate.* Beginning January 1, 2023, the following monthly rates shall be charged:
 - a. A service availability charge of \$15.15 per month shall be assessed for the provision of single-phase electric service of this type.
 - b. A service availability charge of \$33.33 per month shall be assessed for the provision of three-phase electric service of this type.
 - c. The monthly rate per kilowatt-hour for small commercial service shall be \$0.1032.
- (3) *2024 small commercial service rate.* Beginning January 1, 2024, the following monthly rates shall be charged:
 - a. A service availability charge of \$15.30 per month shall be assessed for the provision of single-phase electric service of this type.
 - b. A service availability charge of \$33.66 per month shall be assessed for the provision of three-phase electric service of this type.
 - c. The monthly rate per kilowatt-hour for small commercial service shall be \$0.10475.
- (4) *2025 small commercial service rate.* Beginning January 1, 2025, the following monthly rates shall be charged:
 - a. A service availability charge of \$15.45 per month shall be assessed for the provision of single-phase electric service of this type.
 - b. A service availability charge of \$34.00 per month shall be assessed for the provision of three-phase electric service of this type.
 - c. The monthly rate per kilowatt-hour for small commercial service shall be \$0.1063.

(5) *2026 small commercial service rate.* Beginning January 1, 2026, the following monthly rates shall be charged:

- a. A service availability charge of \$15.60 per month shall be assessed for the provision of single-phase electric service of this type.
- b. A service availability charge of \$34.50 per month shall be assessed for the provision of three-phase electric service of this type.
- c. The monthly rate per kilowatt-hour for small commercial service shall be \$0.1079.

(c) *Large commercial rate.* The following large commercial service rate shall only apply to service to large commercial customers. Large commercial customers are defined as non-residential business electric consumers whose demand for electric power is 75 kilowatts or more but less than 150 kilowatts. No other service rate shall be available for service to which the large commercial rate applies. The monthly rates shall be as follows:

(1) *2022 large commercial service rate.* Beginning March 1, 2022, the following monthly rates shall be charged:

- a. A service availability charge of \$200.00 per month shall be assessed for the provision of electric service of this type.
- b. A demand charge shall be assessed at a rate of \$7.75 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
- c. The monthly rate per kilowatt-hour for large commercial service shall be \$0.06825.

(2) *2023 large commercial service rate.* Beginning January 1, 2023, the following monthly rates shall be charged:

- a. A service availability charge of \$202.00 per month shall be assessed for the provision of electric service of this type.
- b. A demand charge shall be assessed at a rate of \$7.83 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
- c. The monthly rate per kilowatt-hour for large commercial service shall be \$0.06927.

(3) *2024 large commercial service rate.* Beginning January 1, 2024, the following monthly rates shall be charged:

- a. A service availability charge of \$204.00 per month shall be assessed for the provision of electric service of this type.
- b. A demand charge shall be assessed at a rate of \$7.91 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.

- c. The monthly rate per kilowatt-hour for large commercial service shall be \$0.07031.
- (4) *2025 large commercial service rate.* Beginning January 1, 2025, the following monthly rates shall be charged:
- a. A service availability charge of \$206.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.00 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for large commercial service shall be \$0.07137.
- (5) *2026 large commercial service rate.* Beginning January 1, 2026, the following monthly rates shall be charged:
- a. A service availability charge of \$209.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.10 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for large commercial service shall be \$0.07244.
- (d) *Industrial rate.* The following industrial service rate shall only apply to service to industrial customers. Industrial customers are defined as non-residential business electric consumers whose normal demand for electric power is 150 kilowatts or more but less than 300 kilowatts. No other service rate shall be available for service to which the industrial rate applies. The monthly rates shall be as follows:
- (1) *2022 industrial service rate.* Beginning March 1, 2022, the following monthly rates shall be charged:
- a. A service availability charge of \$200.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.75 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for industrial service shall be \$0.06300.
- (2) *2023 industrial service rate.* Beginning January 1, 2023, the following monthly rates shall be charged:
- a. A service availability charge of \$202.00 per month shall be assessed for the provision of electric service of this type.

- b. A demand charge shall be assessed at a rate of \$7.83 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for industrial service shall be \$0.06395.
- (3) *2024 industrial service rate.* Beginning January 1, 2024, the following monthly rates shall be charged:
- a. A service availability charge of \$204.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.91 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for industrial service shall be \$0.06490.
- (4) *2025 industrial service rate.* Beginning January 1, 2025, the following monthly rates shall be charged:
- a. A service availability charge of \$206.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.00 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for industrial service shall be \$0.06588.
- (5) *2026 industrial service rate.* Beginning January 1, 2026, the following monthly rates shall be charged:
- a. A service availability charge of \$209.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.10 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for industrial service shall be \$0.06687.
- (e) *Primary with transformation rate.* The following primary rate shall only apply to service to industrial customers metered at primary voltage with demand above 300 kilowatts and who require the utility to provide transformer service. No other service rate shall be available for service to which the primary with transformation rate applies. The monthly rates shall be as follows:
- (1) *2022 primary with transformation rate.* Beginning March 1, 2022, the following monthly rates shall be charged:
- a. A service availability charge of \$600.00 per month shall be assessed for the provision of electric service of this type.

- b. A demand charge shall be assessed at a rate of \$7.75 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary with transformation service shall be \$0.06300.
- (2) *2023 primary with transformation rate.* Beginning January 1, 2023, the following monthly rates shall be charged:
- a. A service availability charge of \$605.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.83 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary with transformation service shall be \$0.06395 shall be charged for the hourly consumption of electricity.
- (3) *2024 primary with transformation rate.* Beginning January 1, 2024, the following monthly rates shall be charged:
- a. A service availability charge of \$612.50 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.91 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary with transformation service shall be \$0.06490.
- (4) *2025 primary with transformation rate.* Beginning January 1, 2025, the following monthly rates shall be charged:
- a. A service availability charge of \$620.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.00 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month
 - c. The monthly rate per kilowatt-hour for primary with transformation service shall be \$0.06588.
- (5) *2026 primary with transformation rate.* Beginning January 1, 2026, the following monthly rates shall be charged:
- a. A service availability charge of \$625.00 per month shall be assessed for the provision of electric service of this type.

- b. A demand charge shall be assessed at a rate of \$8.10 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
- c. The monthly rate per kilowatt-hour for primary with transformation service shall be \$0.06687.

(f) *Primary without transformation.* The following primary rate shall be available only to industrial customers metered at the primary voltage (7,200v) with typical demand above 300Kw and, who own their transformation facilities. No other service rate shall be available for service to which the primary without transformation rate applies. The monthly rates shall be as follows:

- (1) *2022 primary without transformation rate.* Beginning March 1, 2022, the following monthly rates shall be charged:
 - a. A service availability charge of \$100.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.75 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary without transformation service shall be \$0.06300.
- (2) *2023 primary without transformation rate.* Beginning January 1, 2023, the following monthly rates shall be charged:
 - a. A service availability charge of \$105.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.83 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary without transformation service shall be \$0.06395.
- (3) *2024 primary without transformation rate.* Beginning January 1, 2024, the following monthly rates shall be charged:
 - a. A service availability charge of \$107.50 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$7.91 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary without transformation service shall be \$0.06490.

- (4) *2025 primary without transformation rate.* Beginning January 1, 2025, the following monthly rates shall be charged:
- a. A service availability charge of \$110.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.00 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary without transformation service shall be \$0.06588.
- (5) *2026 primary without transformation rate.* Beginning January 1, 2026, the following monthly rates shall be charged:
- a. A service availability charge of \$115.00 per month shall be assessed for the provision of electric service of this type.
 - b. A demand charge shall be assessed at a rate of \$8.10 per kilowatt based on the highest 15-minute average usage recorded on the demand meter during the month.
 - c. The monthly rate per kilowatt-hour for primary without transformation service shall be \$0.06687.

(g) *Private or security lighting.* The following private security lighting rate shall apply for each private security light provided to the customer. The monthly rates shall be as follows:

- (1) *2022 private security lighting rate.* Beginning March 1, 2022, for service availability, a charge of \$15.00 per month shall be assessed.
- (2) *2023 private security lighting rate.* Beginning January 1, 2023, for service availability, a charge of \$15.15 per month shall be assessed.
- (3) *2024 private security lighting rate.* Beginning January 1, 2024, for service availability, a charge of \$15.30 per month shall be assessed.
- (4) *2025 private security lighting rate.* Beginning January 1, 2025, for service availability, a charge of \$15.45 per month shall be assessed.
- (5) *2026 private security lighting rate.* Beginning January 1, 2026, for service availability, a charge of \$15.60 per month shall be assessed.

(h) *Energy Cost Adjustment.* Effective January 1, 2023, the kilowatt-hour rates established in this section shall be subject to the energy cost adjustment authorized by this subsection.

- (1) The Energy Cost Adjustment ("ECA") shall be calculated annually for the prior calendar year. Any difference from the base wholesale energy cost rate shall be applied monthly to electric utility bills beginning in April through March of the next calendar year for each kilowatt-hour used.

- (2) The method to be utilized to calculate the ECA adjustment shall be the difference between the anticipated wholesale power cost through 2026 and the actual cost of wholesale power cost per kilowatt-hour for each calendar year from 2023 through 2025.
 - (3) The anticipated wholesale power cost is determined by the actual cost of wholesale energy costs for the 12 months from January 2021 through December 2021 for the actual delivery of all wholesale power to the electric utility.
 - (4) The actual cost of wholesale power per kilowatt-hour for each calendar year from 2023 through 2025 shall be calculated by dividing the total wholesale power cost realized by the electric utility by the total kilowatt-hours sold.
- (5) The ECA shall be established by resolution of the city council each year.

(Prior Code, § 7-24; Ord. No. 1683, 3-14-2011; Ord. No. 2239, § 1, Amd. No. 1, 2-14-2022; Ord. No. 2308, § 1, 4-10-2023)

Sec. 22-311. Net metering service.

(a) *Applicable service territory.* Net metering is available in the distribution service territory of the city at any point on the existing facilities that have adequate capacity and suitable voltage for delivery of service.

(b) *Availability of service.* Net metering service is available to any customer that owns and operates a solar, wind, or biomass generating facility or hydrogen fuel cell with a capacity of not more than 100 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the utility's existing transmission and distribution facilities, and is intended primarily to offset part or all of the customer's own electrical power requirements. This rider is offered in compliance with Consumer Clean Energy Act (386.887, RSMo Supp. 2002) and state Public Service Commission Rule 4, CSR 240-20.065.

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

City includes the city, its electric department and electric system.

Customer-generator is a consumer of electric energy who purchases electric energy from the city and is the owner of a qualified net metering unit.

Net metering means measuring the difference between the electricity supplied by the city and the electricity generated by an eligible customer-generator and fed back to the electric grid over the applicable billing period.

(d) *Monthly billing/rate.*

- (1) The electric service charge shall be computed in accordance with the monthly billing under the customer's effective standard rate schedule. Under this net metering rider, only the kilowatt-hour (kWh) units of a customer-generator's bill are affected.

- (2) If the electricity supplied by the city exceeds the electricity generated by the customer-generator during the applicable billing period, the customer-generator shall be billed for the net billable kWhs supplied by the city in accordance with the rates and charges under the city's standard rate schedule applicable to the customer.
 - (3) If the electricity generated by the customer-generator exceeds the electricity supplied by the city, the customer-generator shall be credited for the net value of the electric energy delivered to the city during the applicable billing period at the city's avoided cost, with this credit appearing with the customer-generator's bill no later than the following billing period.
 - (4) The city's avoided cost to be credited shall be the cost per kilowatt-hour (kWh) of energy received by the city electric department during the billing period multiplied by the number of kWh registered at the customer-generator's meter.
- (e) *Special conditions.*
- (1) The customer-generator must have a signed standard interconnection application/agreement for net metering with the city and obtained any required permits.
 - (2) The customer-generator is responsible for all costs associated with its generating facility and is also responsible for all costs related to any modifications to the facility that may be required by the city for purposes of safety and reliability.
 - (3) A net metering facility shall meet all applicable safety and performance standards established by the National Electric Safety Code, the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratory.
 - (4) The customer-generator is responsible for obtaining liability insurance and such other requirements listed on the interconnection application/agreement for net metering.

(Prior Code, § 7-25; Ord. No. 1683, 3-14-2011)

Sec. 22-312. Provisions related to payment of bills for electric charges.

- (a) All bills issued by the city for the payment of electric service shall be due and payment shall be made on the due date stated on said bill. Bills shall be mailed via United States regular mail. Bills shall be considered delinquent after 5:00 p.m., central time, on the due date stated on said bill. The due date for electric service bills shall be the 5th or 20th day of the month. Payments that are mailed, including payments made by a bank bill pay service provided by the user's bank or financial institution, must be received by the due date to avoid a surcharge or disconnection of service. A surcharge in the amount established in section 2-151 of this Code shall be added to all bills for electric service which are not paid by the stated due date. If a bill for electric service is not paid by the tenth calendar day following the due date, the provision of electric service will be subject to being disconnected. Following disconnection of services due to nonpayment, full payment of all delinquent utility accounts

due shall be paid prior to the city reconnecting electric utility service. Furthermore, a service charge in the amount established in section 2-151 of this Code shall be charged for the reconnection of electric service, or any other utilities which require reconnection.

(b) Bills and notices to electric service users shall be deemed to have been presented and given when sent via United States regular mail to the address of the utility user on file with the city.

(c) Electric service shall be provided for the sole use of the electric utility user. The resale or sub-metering of electric energy or electric service by any person is prohibited. A separate bill shall be issued for each meter, and electric service furnished to the same user through separate meters and shall not be added or cumulated for billing purposes, irrespective of the location of the meters except only when such separate meters are installed on the same premises for the convenience and at the request of the city, in which event the electric service furnished through said meters may be cumulated for billing purposes.

(d) The city shall not be bound by bills issued under mistake of fact as to the quantity and nature of electric service rendered.

(e) The city shall have the right to read meters and issue bills either monthly or for such other period as may be deemed practicable by the city and such bills shall be due and payable as provided herein.

(f) In case of a dispute involving the accuracy of an electric meter, such meter may be tested upon the request of the user and the bill will be adjusted as provided in subsections 22-309 of this Code. If upon testing, the meter is found to be accurate as described in subsection 22-309, the requesting customer shall reimburse the city for all testing cost associated with the request.

(g) The city administrator, for the purpose of preventing the disconnection of electric service, is hereby authorized to enter into repayment agreements with electric utility users provided that said users have not failed to fully pay a prior repayment agreement amount within the last 12 months preceding the current request for a repayment agreement. Repayment agreements shall not exceed a term of three months.

(h) The city administrator is authorized and empowered to promulgate additional procedures to carry out the terms and intent of this section. Such additional procedures shall be placed on file for public inspection in the office of the city clerk and shall include, without limitation, procedures related to the disconnection of electric service for nonpayment and provisions related to repayment agreements. Violations of these additional procedures shall be considered violations of this section.

(Prior Code, § 7-4; Ord. No. 1683, 3-14-2011; Ord. No. 1715, 12-19-2011; Ord. No. 1869, 7-20-2015; Ord. No. 2060, § I, 6-24-2019; Ord. No. 2262, § 5, 6-27-2022; Ord. No. 2331, § 16, 10-23-2023)

Secs. 22-313—22-342. Reserved.

ARTICLE V. SOLID WASTE***DIVISION 1. GENERALLY****Sec. 22-343. 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:

Approved incinerator means an incinerator which complies with all current regulations of the state air conservation commission.

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 safely and conveniently loaded in solid waste collection vehicles by solid waste collectors, with the equipment available therefor.

Collection means removal and transportation of solid waste from its place of storage to its place of processing or disposal.

Demolition and construction waste means waste materials from the construction or destruction of residential, industrial or commercial structures.

Director means the city administrator who administers the solid waste management program of the city, or his authorized representative.

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.

Hazardous waste means as provided in RSMo 260.360.

Multiple-housing facility means a housing facility containing more than one dwelling unit under one roof.

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.

Processing means incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

Refuse means solid waste.

***State law reference**—Solid waste management, RSMo 260.200 et seq.

Solid waste means as provided in RSMo 260.200.

- (1) *Commercial solid waste* means solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.
- (2) *Residential solid waste* means solid waste resulting from the maintenance and operation of dwelling units.

Solid waste container means receptacle used by any person to store solid waste during the interval between solid waste collections.

Solid waste disposal means the process of discarding or getting rid of unwanted material; in particular, the final deposition of solid waste by man.

Solid waste management means the entire solid waste system of storage, collection, transportation, processing and disposal.

Storage means keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

Yard wastes means grass clippings, leaves, tree trimmings.

(Prior Code, § 9-1; Ord. No. 1621, 11-2009)

Sec. 22-344. Solid waste storage.

(a) The occupant of every dwelling unit shall use a solid waste container provide by the city's approved waste disposal contractor; and all institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the city, shall provide sufficient and adequate containers for the storage of all solid waste.

(b) The occupant of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.

(c) Residential solid waste shall be stored in containers provided by the city's approved solid waste disposal contractor. Containers shall be leak-proof, waterproof, and fitted with a fly-tight lid and shall be properly covered at all times except when depositing waste therein or removing the contents thereof. The containers shall have handles, bails or other suitable lifting devices or features.

(d) Commercial solid waste shall be stored in solid waste containers as approved by the director. The containers shall be waterproof, leak-proof and shall be covered at all times except when depositing waste therein or removing the contents thereof; and shall meet all requirements as set forth by section 22-347, rules and regulations.

(e) Following the direction of city council, federal or state declaration of natural disaster(s) (tornado, ice storm, snow or the like) tree limbs can be placed at the curb of city removal.

(f) Solid waste containers not in compliance with this article are prohibited.
(Prior Code, § 9-2; Ord. No. 1621, 11-2009; Ord. No. 1793, 8-19-2013)

Sec. 22-345. Collection of solid waste.

- (a) The city shall provide for the collection of solid waste as follows:
 - (1) *Collection of residential solid waste.* The city shall provide for the collection of all residential solid waste in the city, provided, however, that the city may provide the collection service by contracting with a person, county, or other city or a combination thereof, for the entire city or portions thereof, as deemed to be in the best interests of the city.
 - (3) *Other collections.* The city may, at its discretion, provide commercial solid waste collection services upon specific application of the owners or persons in charge thereof. However, in the event that such application is not made or approved, it shall be the duty of such establishment to provide for collection of all solid waste produced upon any such premises.
- (b) All solid waste collected shall, upon being loaded into collection equipment, become the property of the collection agency.
- (c) Solid waste containers as required by this article for the storage of residential solid waste shall be placed at the curb for collection. Solid waste containers permitted by this article, shall not be placed at the curb or alley for collection until 7:00 p.m. the day before the regularly scheduled collection day.
- (d) Bulky rubbish shall be collected by the city's approved contractor in accordance with the contractor's procedure.
- (e) Solid waste collectors, employed by the city or a solid waste collection agency operating under contract with the city, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this article. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste.
- (f) The following collection frequencies shall apply to collections of solid waste within the city:
 - (1) All residential solid waste, other than bulky rubbish, shall be collected at least once weekly.
 - (2) All commercial solid waste shall be collected once weekly, and shall be collected at such lesser intervals as may be fixed by the director upon a determination that such lesser intervals are necessary for the preservation of the health and/or safety of the public.

(g) Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the city to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel.

(h) All collection vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers.

(i) Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities, however, all such material shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

(j) Transportation and disposal of demolition and construction wastes shall be in accordance with section 22-346, disposal of solid waste, and section 22-347.

(k) All refuse containers shall be removed from the curbside by midnight on the day of service.

(l) All refuse must be placed in either an approved container or senior plastic bag, when occupant is 62 years or older, using contractor provided plastic bags.

(m) The resident is responsible for ensuring that trash is not windblown or spread along the ROW. The spreading of refuse will be considered a nuisance violation and be treated accordingly. The resident will be responsible for preventing animals from spreading trash.

(n) All refuse containers shall not be placed curbside before 7:00 p.m. before the day of service.

(o) Trash haulers will not be permitted to begin their rounds before 7:00 a.m.
(Prior Code, § 9-3; Ord. No. 1621, 11-2009)

Sec. 22-346. Disposal of solid waste.

(a) Solid wastes shall be disposed of at a processing facility or disposal area approved by the city and complying with all requirements of the state department of natural resources.

(b) The director may classify certain wastes as hazardous wastes which will require special handling and shall be disposed of only in a manner acceptable to the director and which will meet all local, state and federal regulations.

(Prior Code, § 9-4; Ord. No. 1621, 11-2009)

Sec. 22-347. Rules and regulations.

(a) The director shall make, amend, revoke, and enforce reasonable and necessary rules and regulations, governing, but not limited to:

- (1) Preparation, drainage and wrapping of garbage deposited in solid waste containers.
- (2) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof.
- (3) Identification of solid waste containers and of the covers thereof, and of equipment thereto pertaining, if any.
- (4) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers.
- (5) Storage of solid waste in solid waste containers.
- (6) Sanitation, maintenance and replacement of solid waste containers.
- (7) Schedules of and routes for collection of solid waste.
- (8) Collection points of solid waste containers.
- (9) Collection and disposal of solid waste.
- (10) Processing facilities and fees for the use thereof.
- (11) Disposal facilities and fees for the use thereof.
- (12) Records of quantity and type of wastes received and processed and/or disposal facilities.
- (13) Handling of special wastes such as toxic wastes, sludge, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, etc.

(b) The city clerk or such other city official who is responsible for preparing utility and other service charge billings for the city, is hereby authorized to make and promulgate reasonable and necessary rules and regulations for the billing and collection of solid waste collection and/or disposal service charges, as hereinafter provided for.

(c) A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the city clerk.

(Prior Code, § 9-5; Ord. No. 1621, 11-2009)

Sec. 22-348. Prohibited practices.

It shall be unlawful for any person to:

- (1) Deposit solid waste in any solid waste container other than his own, without the written consent of the owner of such container and/or, with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;

- (2) Interfere in any manner with solid waste collection equipment, or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the city, or those of a solid waste collection agency operating under contract with the city;
- (3) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency;
- (4) Dispose of solid waste at any facility or location which is not approved by the city and the state department of natural resources;
- (5) Engage in the business of collection, transporting, processing or disposing of solid waste within the corporate limits of the city without a permit from the city, or operate under an expired permit, or operate after a permit has been suspended or revoked.

(Prior Code, § 9-6; Ord. No. 1621, 11-2009)

Sec. 22-349. Service charges.

- (a) There is hereby imposed, for the collection and disposal of solid waste, a service charge for each dwelling unit and each commercial establishment to which such service shall be provided under the provisions of this article. The monthly service charge for collection of residential solid waste shall be in an amount to be set from time to time by the city council. The service charge for each commercial establishment will be determined by the director on the basis of quantity and characteristics of material, point of pickup, and time required to collect the solid waste if service is performed by the city.
- (b) The service and service charge shall be terminated upon presentation of satisfactory proof to the director that any such dwelling unit or establishment is unoccupied, and shall be commenced upon renewed occupancy thereof.
- (c) The system of services established by the provisions of this article hereof is designed as an integral part of the city's program of health and sanitation, to be operated as adjunct to the city's system for providing potable water and the city's system for providing sewerage disposal. The city may enforce collection of such charges by bringing proper legal action against the occupant of any premises which has received such services, to recover any sums due for such services plus a reasonable attorney's fee to be fixed by the court.
- (d) The service charge herein provided for is hereby imposed upon the occupant of each dwelling unit receiving such service under the provisions of this article and billing therefor shall be made to the person contracting for city electric, water, and/or sewerage service. In the absence of information that such person is neither the owner nor the tenant of such dwelling unit, billing therefor shall be made to the owner. Service charges shall be payable to the department empowered to collect service charges imposed by the city.

(Prior Code, § 9-7; Ord. No. 1621, 11-2009)

Sec. 22-350. Bonds.

The holder of a permit to collect solid waste and/or to operate processing or disposal facilities shall furnish a performance bond in the sum of \$500.00 with a good and sufficient surety acceptable to the city. The city council may from time to time require such additional bonds as, in their discretion, they determine necessary to ensure compliance with the terms of this division and the laws of the state and to protect the interest of the city and its residents.

(Prior Code, § 9-9; Ord. No. 1621, 11-2009)

Secs. 22-351—22-373. Reserved.**DIVISION 2. RECYCLING****Sec. 22-374. Facility use.**

Any member of the general public may utilize the recycle/compost collection facility during the normal business hours of the facility. Users shall personally deliver and deposit only accepted recycling material and, free of garbage, animal and hazardous wastes, during normal hours of operation. Recycling material must be deposited in designated bins. Users of the city's solid waste collection system may utilize the facility without the need for a permit, pursuant to the approval of Ordinance 898 (Approved by the qualified voters at the April 4, 1995, election). Those who are not users of the city's solid waste collection system may utilize the facility after obtaining a permit from the city and paying the permit fee established in section 2-151 of this Code.

(Prior Code, § 9-41; Ord. No. 1610, 9-2009; Ord. No. 2331, § 18, 10-23-2023)

Sec. 22-375. Non-acceptable waste.

Acceptable recyclables shall not include commercial, industrial or agricultural solid waste.

(Prior Code, § 9-42; Ord. No. 1610, 9-2009)

Sec. 22-376. Acceptable recycle materials and preparation.

Residents shall be responsible for the cleanliness preparation and proper disposal of each recyclable. Acceptable materials and proper material preparation shall be as follows:

- (1) Glass containers. All colors; shall be rinsed to avoid health and nuisance problems. Metal and plastic lids, rings and caps shall be removed.
- (2) Metal. Includes aluminum and in cans and lids. Cans shall be rinsed to avoid health and nuisance problems. Cans should be flattened whenever possible.
- (3) Plastics. Plastic containers shall include soda bottles, milk jugs, and like items. Containers shall be rinsed to avoid health and nuisance problems. Containers shall be flattened and lids and neck rings removed.

- (4) Newsprint. Clean, unsoiled newsprint-type paper containing no glossy magazine-type paper. No magazines shall be accepted.
- (5) No banned material will be accepted.
- (6) Yard waste. Leaves and grass products will be placed in appropriate containers free of trash, garbage and boxes/bags or any other material which was used to transport the waste.

(Prior Code, § 9-43; Ord. No. 1610, 9-2009)

Sec. 22-377. Removal of recycle materials and containers.

It shall be unlawful for persons, firms, or corporations not licensed or contracted by the city to remove recycling containers and/or its contents.

(Prior Code, § 9-44; Ord. No. 1610, 9-2009)

Sec. 22-378. Residential composting.

(a) Residential composting is any process that uses an above ground microbial process to convert yard waste to an organic soil amendment or mulch by decomposition of material through an aerobic process providing adequate oxygen and moisture. It shall be unlawful to accumulate or permit to accumulate any yard waste on any property in the city which will constitute a nuisance as described in chapter 14.

(b) All residential composting facilities shall be constructed and maintained using accepted composting methods to comply with the following requirements:

- (1) All composting shall be maintained so as to prevent the harborage of rodents and pests.
- (2) All compost piles shall be enclosed in a freestanding compost bin that has at least three vertical sides. No compost pile may exceed 25 square feet in area or exceed four feet in height, no lot may contain more than one compost site.
- (3) Compost bins shall be located in a rear yard, at least 15 feet from any dwelling on adjacent property and at least five feet from the property line.
- (4) All composting shall be maintained so as to inhibit the generation of odors.
- (5) Only yard waste, straw, fruit and vegetable scrap, egg shells or coffee grounds generated from within the boundaries of the parcel in which the compost area is located, may be used.
- (6) The following materials are prohibited from use in residential compost container: meat, bones, whole eggs, dairy products, unshredded branches or logs, weeds heavily loaded with seeds, plastics, synthetic fibers, human or pet waste, diseased plants and any other garbage or refuse, except for those permitted in subsection (b)(5) of this section.
- (7) No compost pile shall be located in a drainage easement or where it will impede the natural free flow of stormwater drainage.

(c) Residential composting facilities established in accordance with this Code are for private use only. There shall be no commercial use of the product of such composting.
(Prior Code, § 9-45; Ord. No. 1610, 9-2009)

Chapter 23

REVITALIZATION PROGRAM

Sec. 23-1. Nixa Beautification Facade Grant Program.

Sec. 23-1. Nixa Beautification Facade Grant Program.

(a) There is hereby established by the City of Nixa, Missouri a Nixa Beautification Facade Grant Program. The purpose of this program is to encourage property owners to perform repairs and to update their buildings located in commercial or industrial zoned areas which were constructed prior to January 1, 1989.

(b) In order to be eligible for the Nixa Beautification Facade Grant Program a property owner must meet certain approval criteria, be approved by the city council, and documentation must be executed by the property owner and city evidencing written approval of the project.

(c) The Nixa Beautification Facade Grant Program is subject to the availability and appropriation of funds. Funds will be available until expended.

(d) Any grant made pursuant to the Nixa Beautification Facade Grant Program shall not exceed \$7,500.00.

(e) Any property owners receiving a grant must submit any documents and applications forms provided by the City of Nixa and follow all program regulations adopted by the city.
(Ord. No. 2063, § II, 6-24-2019; Ord. No. 2135, § 1, 8-10-2020)

Chapter 24

RIGHT-OF-WAY AND PUBLIC PROPERTY

Article I. Use of Public Right-of-Way and Public Property

- Sec. 24-1. Definitions.
- Sec. 24-2. Encroachments permits within public rights-of-way, public easements and public property.
- Sec. 24-3. Standards and conditions.
- Sec. 24-4. Permit issuance.
- Sec. 24-5. Insurance.
- Sec. 24-6. Appeals.
- Sec. 24-7. Revocation of permits.
- Sec. 24-8. Removal of encroachment.
- Sec. 24-9. Liability.
- Sec. 24-10. Enforcement.
- Sec. 24-11. Obligations of city.
- Sec. 24-12. Severability.
- Sec. 24-13. Codification.

ARTICLE I. USE OF PUBLIC RIGHT-OF-WAY AND PUBLIC PROPERTY**Sec. 24-1. Definitions.**

(a) *Definitions and usage - General.* For the purposes of this Chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense and vice versa, words in the plural number include the singular number and vice versa, and masculine gender includes the feminine gender and vice versa. The words 'shall' and 'will' are mandatory, and 'may' is permissive. Unless otherwise expressly stated or contrary to the context, terms, phrases, words, and abbreviations not defined herein shall be given their common and ordinary meaning. For further convenience, the first letter of terms, phrases, words, and abbreviations defined in this Article have been capitalized, but an inadvertent failure to capitalize such letter shall not affect its meaning, nor shall the inadvertent capitalization of the first letter of a term, phrase, word or abbreviation not defined herein affect the meaning thereof.

(b) Defined terms:

- (1) *ADA* means Americans with Disabilities Act
- (2) *City* means the City of Nixa, Missouri.
- (3) *Construction or performance bond* means a type of surety bond used in construction projects to protect against disruptions or financial loss to the city, due to a contractor's failure to complete the project or; is found to be in violation of this chapter to the point that any part of the Encroachment has to be corrected.
- (4) *Director* means the Director of Nixa Utilities and Public Works or designee.
- (5) *Encroachment* means the installation, maintenance or repair of: a driveway approach, sidewalk, utility facility (data and/or communications, gas, sewer, water, electric, etc.) public or private, that is installed on, over or under any portion of a public right-of-way or public easement (utility, drainage or other) or public property that requires digging, trenching, cutting of any roadway, curbing, sidewalk, etc. after the original construction of any improvements have been completed and; after the final plat has been approved and recorded and; the improvements have been inspected and accepted by the city as being complete. An Encroachment is not a utility/infrastructure improvement which has been installed in accordance with the approved construction documents as part of the original construction of a development.
- (6) *Encroachment permit* is a revocable permit granted by the director to allow the permittee to encroach upon a public right-of-way, public easement or public property where compliance with this chapter can be demonstrated.

- (7) *Missouri One-Call System* 1-800-dig-rite, the Missouri Underground Facility Safety and Damage Prevention system is a notification center used by participating utilities to receive utility locate requests. These utility locates are required by law and applies to any person excavating in the state of Missouri.
- (8) *Permittee* means any person(s), firm, company, corporation, association, public agency or organization that proposes to do work or encroach upon a public right-of-way, public easement or public property as herein defined and has been issued an Encroachment Permit.
- (9) *Public easement (utility, drainage, or other)* means an easement granted to the city for a public purpose, including, but not limited to the purpose of installing or maintaining public or private utility infrastructure for the provision of natural gas, electric power, sanitary sewer, storm drainage systems, water or telecommunications to the public.
- (10) *Public property:* means real property owned by, and in the control of, the city and open to the public for public use.
- (11) *Public right-of-way or street right-of-way:* means the full width of the surfaced, un-surfaced or traveled portion, including shoulders and ditches, slopes of cuts and fills of any road, street, path, lane, or alley dedicated to, reserved for, used by or for the general public, when those roads, streets, paths, lanes, and alleys have been accepted as and declared to be, part of the city's system of public streets, including all land or interest therein which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for, or dedicated to, the use of general public. This definition does not include any street or highway forming a part of the state of Missouri highway system or Christian County roadway.
- (12) *Stop work order* means a legal notice requiring all work be immediately suspended.
- (13) *Utility facility* means any city or third-party utility company assets used in the delivery of a utility service including but not limited to: telephone, cable t.v., data, communications, electric, fiber optic, gas, sewer, stormwater, water either public or private. This includes all appurtenances such as pipes, wires, junction boxes or cabinets, poles, antennas or any other part or materials used in any of these services.
- (14) *Within the city* means the territory over which the city now has or acquires jurisdiction for the exercise of its powers.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-2. Encroachment permits within public rights-of-way, public easements and public property.

- (a) Permits required for encroachment;
- (1) *Permits required.* The following activities require an encroachment permit: the installation, maintenance or repair of: a driveway approach, sidewalk, utility facility either public or private, that is installed on, over or under any portion of any public

right-of-way or public easement or public property that requires digging, trenching, cutting of a roadway, curbing, sidewalk, etc. after the original construction of a development has been completed and; after the final plat has been approved and recorded and; the improvements have been inspected and accepted by the city as being complete.

- (2) *Specific exemptions.* Exempt encroachments are those which, in the opinion of the director, would have a minor impact on the present or planned use of the public right-of-way, public easement or public property and those which are expressly exempted herein. The following encroachments are exempt as long as they do not create a vision or clearance hazard.
 - a. Mailboxes and their enclosing structures,
 - b. Temporary signs and banners as permitted by city ordinance.
 - c. along edges of driveway approaches, walks, stairs, etc. that encroach in public right-of-way, and;
 - d. Lawns, plants and approved street trees encroaching in public right-of-way that do not impede mobility or obstruct visibility for pedestrians, bicyclists and motorists and; do not violate ADA standards.
 - e. This chapter shall not apply to any officer or employee of the city in the discharge of his official duties.
 - (3) *Emergency work authorization.* This chapter shall not prevent any person, association, firm or corporation from performing emergency maintenance on any pipe, conduit or wire lawfully on or under any public street, or from making an emergency use, or encroachment as may be necessary for the preservation of life or property when an urgent necessity therefor arises, except that the person, firm, association or corporation making an emergency use or encroachment shall apply for a written permit as soon as possible after work has begun, commencing with the first business day the city offices open.
 - (4) *Failure to obtain an encroachment permit prior to start of work.* It is the responsibility of the person or organization creating the encroachment to make sure required permit(s) are secured prior to the start of any work within a public right-of-way, public easement or public property. Failure to do so will result in a "stop work order" and possible citation for being in violation of this section. Each day that the encroachment exists without a permit will be subject to a fine of up to \$100.00 per day. The stop work order will be rescinded only after a permit for the encroachment has been secured, any discrepancies have been remedied and any assessed fines have been paid.
- (b) *Application, fees and construction bond.*
- (1) Any person desiring to locate or maintain an encroachment shall submit an application (on a form proved by the city) to the office of the director. The application shall include a description of the proposed encroachment and a scale drawing

illustrating the nature and extent of the proposed encroachment and its relationship to adjoining properties and facilities. The director may require an actual survey to determine the exact location of any public or private improvements that will be encroaching in the public right-of-way.

- (2) *Permit fee.* A Permit processing fee in the amount established in section 2-151 of this Code shall be paid at the time the permit application is submitted.
- (3) *Construction bond.* A construction bond in the amount of at least \$5,000.00 naming the city of Nixa as payee/beneficiary shall be established at the time of application. A bond may be made in the form of cash or certified cashier's check or; in lieu of a cash deposit, the applicant may, upon approval by the director, file an approved surety bond issued by a company authorized to do a general surety business in the state of Missouri. The purpose and intent of this bond is to reimburse the city for expenses that are incurred when having to remove an encroachment and restore the right-of-way to its former condition.

Any bond provided as surety for this section may only be accessed by the city and only for the purpose of completing, repairing or removing an encroachment that either has been abandoned by the contractor, does not meet the standards set forth in this chapter or; has left the encroachment site in disrepair (i.e. the directional boring contractor boring too shallow, causing a protuberance in the street asphalt). If for some reason the encroachment permit is denied, the full bond amount shall be returned to the applicant once they are notified of that denial.

Any bond or cash deposit required by the director pursuant to this part shall be payable to the city and shall be filed with the city clerk at the time of application.

Upon satisfactory completion of all work authorized in the permit, and fulfillment of all conditions of the permit, the city will release the bond, or cash deposit back to the permittee. The city shall not reduce or release any portion of any bond for any reason until satisfactory completion of all work covered by the permit.

- (4) *Exceptions to fee and bond requirements.* Work which requires a permit and is being performed by any person or persons, firm or corporation under contract with the city and for the city, or any city department will be exempt from the fee and bond requirements of this chapter.
 - (c) *Review of application.* The director shall conduct or cause a review of the application for an encroachment permit to determine its compliance with the standards in this section, and the director, may at his discretion, request comments from affected city departments, third party utility companies and agencies regarding the impact of the proposed encroachment.

(Ord. No. 2066, § I, 7-22-2019; Ord. No. 2331, § 19, 10-23-2023)

Sec. 24-3. Standards and conditions.

- (a) The director may approve the issuance of an encroachment permit where compliance with the following standards can be demonstrated or specific findings are made that the standard is not applicable.
- (b) The director may attach any conditions to the issuance of the permit that are required in any applicable planning approvals or reasonably related to ensuring compliance with this section, or other applicable city codes.
- (c) *Standards for approval.* The following conditions constitute the general standards for approval of an encroachment:
 - (1) Horizontal clearances of at least five feet shall be maintained on all sides of all Nixa utilities including electrical power, sanitary sewer, storm drain, and water. This distance shall be measured between proposed encroachments and existing or proposed utility lines, manholes, appurtenances, and fixtures, including but not limited to fire hydrants, above ground transformers, junction cabinets, and other structures. Clearances around water meters shall be at least one foot behind and two feet from the sides when measured from the outside edges of the box. A larger horizontal clearance may be required if utility safety standards mandate larger clearances for specific structures. For example, additional clearance may be required in front of electrical cabinets and transformers to prevent blocking the access to these utilities or separation requirement by other State or Federal regulatory agencies. Requests by the utility provider for larger horizontal clearances or additional conditions shall be considered for inclusion into the permit. The applicant shall pay for relocation of any existing utility lines, manholes, appurtenances, and fixtures if this standard cannot be met.
 - (2) Vertical clearance of at least 2.5 feet when directional boring perpendicular to and under a city street. Vertical clearances between utilities and natural landscape materials or structures placed below or above those facilities shall be the distance required by the affected utilities. Conditions requested by the utility providers shall be considered for inclusion into the permit.
 - (3) Proposed encroachments, improvements and temporary measures shall not cover, prevent access to, cause to be polluted or block the flow of stormwater into inlets, basins, ditches, or drainage ways. Grading changes shall not otherwise alter the drainage patterns in the right-of-way without written approval of a grading and erosions control plan by the director.
 - (4) Sufficient space for off-street parking, loading, and pedestrian travel shall be maintained at all times. The encroachment shall not result in a loss of area needed for parking, vehicular maneuvering, or pedestrian travel. Additionally, the Permittee shall (at their own expense) be responsible for the installation and maintenance of all proper signage in accordance with the Manual On Uniform Traffic Control Devices

and; shall submit a traffic detour plan (at least five working days prior to the start of any work for any planned road closures) to the city with the permit application for approval.

- (5) The requested encroachment must be consistent with the current use of the public right-of-way, easement or public property.
- (d) *Conditions.* The following conditions will be placed on any proposed encroachment:
 - (1) When the director determines that allowing the requested encroachment may subject the city to potential liability, it shall be denied unless the applicant submits in writing, as part of the permit application process, an agreement, approved by the city attorney, to hold the city, its officers, agents, and employees, harmless from any and all claims for injury or damage to persons or property that might result from the placing and/or maintenance of the permitted encroachment.
 - (2) All work within the public right-of-way, public easement, or public property shall be consistent with engineering plans, profiles, specifications, and standards approved by the director in accordance with city requirements.
 - (3) The director may place a limit on the time the proposed encroachment may be located in or on the public right-of-way, public easement or public property. No open hole or trench may be left unattended outside of normal business hours without being secured by caution tape or temporary fencing or other approved means to block access by to the general public. No open hole or trench may be left open for a period of more than 30 calendar days, regardless of weather conditions unless approved by the director.
 - (4) To ensure that encroachments do not contribute to undue visual blight or create a safety hazard, conditions for permit approval require the area to be appropriately maintained.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-4. Permit issuance.

The director may approve, modify and approve, or deny the application for an encroachment permit as he or she deems necessary or fitting.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-5. Insurance.

(a) *Insurance policies required.* With the exception of the city, and unless otherwise approved by the director, any person or organization, including subcontractors, that has less than \$25,000,000.00 in assets shall keep in force and affect all insurance policies and bonds as described herein while for the duration of the time the permit is issued:

- (1) Workers' compensation and employers' liability insurance. Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by Missouri law at the time of the application of this provision for each accident.

- (2) Commercial general liability insurance. Such policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with limits of liability not less than \$2,000,000.00 general aggregate, \$2,000,000.00 products/completed operations aggregate, \$2,000,000.00 personal injury, \$2,000,000.00 each occurrence.
 - (3) Automobile liability insurance. Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability are to be not less than \$1,000,000.00 each occurrence, \$1,000,000.00 aggregate.
 - (4) Umbrella Liability Insurance. Coverage is to be in excess of the sum of employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability are to be not less than \$4,000,000.00 each occurrence, \$4,000,000.00 aggregate.
- (b) *Self-insurance.* At the city's sole discretion, a person or entity may self-insure all or a portion of the insurance coverage and limits required by the city.
- (c) *Certificate of insurance; other requirements.* Prior to any work on public property or the right-of-way, and person or organization performing such work shall furnish the city with a certificate of insurance ("Certificate") and, upon request, certified copies of the required insurance policies held by the person or organization. All policies, other than workers' compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed \$100,000.00, or such greater amount as expressly allowed in writing by the city.
- (d) *Limits.* The limits of liability set out in this section may be increased or decreased by mutual consent of the city and an applicant, which consent will not be unreasonably withheld by either, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease a Wireless Services Provider's exposure to risk.
- (e) *Prohibited exclusions.* No policies of insurance required by this section shall contain provisions that: (1) exclude coverage of liability assumed pursuant to this chapter, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to city employees or agents, or (4) exclude coverage of liability for injuries or damages caused by the insured's contractors or the contractors' employees or agents. This list of prohibited provisions shall not be interpreted as exclusive.
- (f) *Deductible/self-insurance retention amounts.* Each personal or organization shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-6. Appeals.

Any person aggrieved by the decision of the director shall have the right to appeal the decision to the city council. The appeal shall be filed with the city clerk no later than 30 days after the date of the notice issued by the development department. The city council shall hear the appeal of the applicant as an agenda item at the next regularly scheduled city council meeting after its receipt by the city clerk.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-7. Revocation of permits.

(a) All public right-of-way, public easement or public property encroachment permits shall be revocable by the city at any time such revocation would be in the public interest. No grant of any permit, expenditure of money in reliance thereon, or lapse of time shall give the permittee any right to the continued existence of an encroachment or to any damages or claims against the city arising from a revocation.

(b) Any permit issued under this section shall be automatically revoked if the permittee fails to comply with any conditions of the permit; fails to begin installation of the allowed encroachment within 30 days after issuance of the permit or; fails to complete the installation of the allowed encroachment within 60 days after issuance of the permit.

(c) A one time, 14-day extension may be requested in writing at least five business days prior to the expiration of the 60 day period.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-8. Removal of encroachment.

Upon revocation, the permittee or any successor permittee shall, at the permittee's own expense, remove the permitted encroachment within 30 days after written notice has been provided by the city unless; a shorter period is specified in the notice of revocation. If the permittee does not remove the encroachment and return the public right-of-way, public easement or public property area to original condition satisfactory to the director, the city shall take steps to acquire funds from the permittees construction bond, utilizing these funds to offset the cost of returning the public right-of-way, public utility easement or public property to a satisfactory condition, including the removal of structures and reconstruction of streets and/or pathways.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-9. Liability.

The permittee, and owner of the benefitted property, if different than the permittee, shall be liable to any person or property who is injured or otherwise suffers damage by reason of any encroachment allowed in accordance with the provisions of this section. Additionally, the permittee shall indemnify the city, its officers, agents and employees from any claims of liability from any person who is injured or otherwise suffers damage by reason of any encroachment allowed in accordance with the provisions of this section. Furthermore, the

permittee shall be liable to the city, its officers, agents and employees, for any judgment or expense incurred or paid by the city, its officers, agents and employees, by reason of the existence of an approved encroachment.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-10. Enforcement.

Installation or maintenance of an encroachment in violation of this code, or failure to obtain an encroachment permit as required by this code or; failure to comply with the terms and conditions of an encroachment permit issued thereunder is hereby declared a civil infraction subject to enforcement pursuant to Section 1-9.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-11. Obligations of city.

The exercise of jurisdiction and regulatory control over a public right-of-way by the city is not official acceptance of the right-of-way for public access and does not obligate the city to open or improve any part of the right-of-way. Upon improvement of any public right-of-way to city street standards, the city shall accept by resolution the improvement and maintain and repair such improvement to the standard to which it has been improved.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-12. Severability.

The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

(Ord. No. 2066, § I, 7-22-2019)

Sec. 24-13. Codification.

Provisions of this chapter shall be incorporated in the city code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or any other word as deemed fitting and; the sections of this chapter may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 4-5) need not be codified and the city clerk is authorized to correct any cross-references and any typographical errors.

(Ord. No. 2066, § I, 7-22-2019)

Chapter 25

SMALL CELL PLACEMENT

Article I. Small Wireless Device Standards for Placement on Municipal/City/Utility Poles

- Sec. 25-1. Purpose and scope.
- Sec. 25-2. Severability.
- Sec. 25-3. Definitions.
- Sec. 25-4. Authority for attachments and modifications.
- Sec. 25-5. Permitting of small wireless facilities.
- Sec. 25-6. Costs and scheduling of make ready work.
- Sec. 25-7. Collocation requirements and conditions.
- Sec. 25-8. Applicable fees and charges.
- Sec. 25-9. Annual attachment rate.
- Sec. 25-10. Audits and list of attachments/facilities and locations.
- Sec. 25-11. Exceptions to applicability.
- Sec. 25-12. Abandonment.
- Sec. 25-13. Insurance and bonding.
- Sec. 25-14. Liability.
- Sec. 25-15. Notification.
- Sec. 25-16. Force majeure.
- Secs. 25-17—25-22. Reserved.

Article II. Small Wireless Device Standards for Placement on Non-Municipal/City/Utility Poles

- Sec. 25-23. Applicability.
- Sec. 25-24. Definitions.
- Sec. 25-25. General standards.
- Sec. 25-26. Permitting provisions.
- Sec. 25-27. General standards.
- Sec. 25-28. Indemnity, insurance, performance bonds.
- Sec. 25-29. Miscellaneous provisions.
- Sec. 25-30. Annexation.
- Sec. 25-31. Relocation of facilities.
- Sec. 25-32. Standards applicable to city.
- Sec. 25-33. Savings clause.

**ARTICLE I. SMALL WIRELESS DEVICE STANDARDS FOR PLACEMENT ON
MUNICIPAL/CITY/UTILITY POLES****Sec. 25-1. Purpose and scope.**

- (a) The purpose and intent of this article I is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, collocation, installation, design, operation and maintenance of small wireless telecommunications facilities on municipal/city/utility poles in the City of Nixa. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with small wireless telecommunications facilities. This article provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the city; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the city consistent with the goals, objectives and policies of the comprehensive plan; (3) provide for the orderly, managed, and efficient development of small cell wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.
- (b) This article is not intended to, nor shall it be interpreted or applied to:
- (1) Prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
 - (2) Prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management;
 - (3) Unreasonably discriminate among providers of functionally equivalent services;
 - (4) Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions;
 - (5) Prohibit any collocation or modification that the city may not deny under federal or state law; or
 - (6) Otherwise authorize the city to preempt any applicable federal or state law.
- (c) This article I, along with any executed small cell wireless agreements, may be amended, modified, vacated or terminated at any time to comply with state and/or federal laws and/or regulations, as well as the ruling of a court of law of competent jurisdiction which addresses issues regarding small wireless facilities and/or any FCC Order or Ruling.

(d) Chapter 24 concerning the use of city property and right-of-way is applicable to the placement of small wireless telecommunications facilities as provided for in this article. In the event of any conflict between the provisions of this article and chapter 24, this article shall govern.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-2. Severability.

If any section, subsection, sentence, clause, phrase, or word of this article is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this chapter. The city council of the City of Nixa hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or words might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-3. Definitions.

(a) For the purposes of this article I, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense and vice versa, words in the plural number include the singular number and vice versa, and masculine gender includes the feminine gender and vice versa. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated or contrary to the context, terms, phrases, words, and abbreviations not defined herein shall be given the city code, and, if not defined therein, their common and ordinary meaning. For further convenience, the first letter of terms, phrases, words, and abbreviations defined in this article have been capitalized, but an inadvertent failure to capitalize such letter shall not affect its meaning, nor shall the inadvertent capitalization of the first letter of a term, phrase, word or abbreviation not defined herein affect the meaning thereof.

(b) *Defined terms:*

- (1) *Antenna* means communications equipment designed for the purpose of transmitting or receiving electromagnetic radiofrequency (RF) signals, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of wireless service and any comingled information services. Antenna does not include an unintentional radiator, mobile station or device.
- (2) *Applicable codes* means uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes, as adopted by the City of Nixa, Missouri, (i.e. National Electrical Code ("NEC"), National Electrical Safety Code ("NESC"), etc.).

- (3) *Applicable standards* means all applicable engineering and safety standards governing the installation, maintenance, and operation of facilities and the performance of all work in or around electric utility facilities and includes the most current versions of the NESC, NEC, and OSHA, each of which is incorporated by reference in this chapter, and/or other reasonable safety and engineering requirements of the city, provided such requirements of the city are applied on a non-discriminatory basis to utility and attaching entities and all other users, and provided further that such requirements of the city are consistent with this chapter. All future updates or revisions of said applicable standards are hereby incorporated herein.
- (4) *Applicant* means any person or entity that submits a collocation or attachment application and the agents, employees and contractors of such person or entity.
- (5) *Application* means a written submission to the City of Nixa, Missouri requesting a permit for authorization of the deployment or collocation of a small wireless facility or personal wireless facility at a specified location on a municipal/city/utility pole.
- (6) *Associated equipment* means equipment, switches, wiring, cabling, associated with an antenna located at the same fixed location as the antenna, and, when collocated on a structure is mounted or installed at the same time as such antenna.
- (7) *Attachment(s)* means any equipment that is placed in the communication space of city poles on the same face of the pole and may include an antenna attachment made on the pole top, pursuant to this chapter. Attachments in the supply space and pole top attachments will be defined in the permitting process and will only be on municipal utility poles designated by city, with street access and which are mutually agreed to by the city and the applicant. All such Attachments are subject to the requirements in this chapter and any small cell wireless agreement between the city and the applicant.
- (8) *City* means the City of Nixa, Christian County, Missouri.
- (9) *Collocate or collocation* means to install, mount, maintain, modify, operate, or replace a small wireless facility on or immediately adjacent to a municipal/city/utility pole, provided that the small wireless facility antenna is located on the wireless support structure or utility pole.
- (10) *Communications service* means a cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.
- (11) *Communications service provider* means a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

- (12) *Communication space* means that space located above the common space on the pole and below the communication worker safety zone. No communications facilities shall be located on the common space or the communications worker safety zone under this chapter unless mutually agreed otherwise by the applicant and the city.
- (13) *Communication worker safety zone* means that dedicated space on a pole that separates the city's supply space from the communication space. No power supply facilities or small cell wireless facilities shall be allowed in the communication worker safety zone.
- (14) *Electrical supply space or supply space* means that portion of a utility pole which is determined to be useable for electric power supply and that is located between the topmost location of the communication worker safety zone and the top of the pole.
- (15) *FCC* means the Federal Communications Commission of the United States.
- (16) *Fee* means a one-time charge.
- (17) *Historic district or historic landmark* means a building, property, or site, or 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 through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C.
- (18) *Law* means a federal or state statute, common law, code, rule, regulation, order, or local ordinance or resolution.
- (19) *Make ready* means all work that the city reasonably determines to be required prior to attachment by the applicant to accommodate the small cell wireless attachment(s) and/or to comply with all applicable standards. Such work includes, but is not limited to, rearrangement and/or transfer of existing attachments and/or facilities, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole replacement and construction, but does not include routine maintenance.
- (20) *Micro wireless facility* means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.
- (21) *Municipal /city/ utility pole* means an electrical distribution pole, which the highest voltage on such pole is equal to or less than 15 kilo volts, that the city owns and is maintained by the city in its capacity as a municipal electric utility. It does not include poles and other structures that are included in the definition of "utility pole."
- (22) *Permit* means the approved application issued by the city after all reviews are completed by the appropriate city departments in response to a permit application being granted. A permit, after all make ready work is completed, provides

permission to a wireless provider for the placement, modification, or removal on or from the city's poles or support structures of the specific small cell wireless facility identified in the application.

- (23) *Person* means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.
- (24) *Public safety agency* means the functional division of the federal government, the state, a unit of local government, or a special purpose district located in whole or in part within this state, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.
- (25) *Rate* means a recurring charge.
- (26) *Right-of-way* means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include any city-owned aerial lines.
- (27) *Small cell/wireless facility* means a wireless facility that meets each of the following qualifications:
 - (i) Each antenna is located inside an enclosure of no more than three cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than three cubic feet in volume; and
 - (ii) 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 electrical utility to power the small wireless facility; and
 - (A) Are mounted on structures 50 feet or less in height including their antennas, or
 - (B) Are mounted on structures no more than ten percent taller than other adjacent structures, or
 - (C) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than ten percent, whichever is greater;
 - (iii) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by the FCC.
- (28) *Unauthorized attachment(s)* means any attachment or facility of any kind placed on or around a city pole(s) without such authorization as is required by this chapter.
- (29) *Utility pole* means a pole or similar structure that is used in whole or in part by a communications service provider or for, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities; but shall not include

wireless support structures, electric transmission structures or breakaway poles owned by the state highways and transportation commission. The term utility pole does not include municipal/city/utility poles.

- (30) *Wireless facility* means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:
- (i) Equipment associated with wireless communications; and
 - (ii) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities.

Wireless facility does not include wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

- (31) *Wireless infrastructure provider* means any person authorized to provide telecommunications service in the state that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the city.
- (32) *Wireless provider* means a wireless infrastructure provider or a wireless service provider.
- (33) *Wireless services* means any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.
- (34) *Wireless services provider* means a person who provides wireless services.
- (35) *Wireless support structure* means a pole, tower, base station, or other structure, whether or not it has an existing antenna facility, that is capable of supporting a small wireless facility.
- (36) *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.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-4. Authority for attachments and modifications.

- (a) No attachment or wireless facility shall be placed on or around any municipal/city/utility poles or modified until: (i) An application has been submitted by the telecommunication provider, a permit is granted by the city, and all make ready work is completed, all in

accordance with this article, and (ii) Applicant has obtained all necessary permits, licenses, consents, certifications and approvals from all governmental authorities and other parties in connection therewith.

(b) Modifications, which do not require lane closures, traffic control issues and which do not implicated non-attaching entities or persons shall not be subject to an additional application and permit to the extent that: (i) such modification to the attachment involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the attachment, as approved by the city, or (ii) such modification involves replacement of the attachment with an attachment that is the same or small in weight and dimensions as the approved attachment. However, written notification shall be provided to the Director of Nixa Utilities for all such modification which do not require an additional application or permit.

(c) Placement or attachment of any of wireless facilities at a new or different position on any municipal/city/utility pole, in each instance where such placement or attachment makes the information provided on the initial application inaccurate, shall constitute a modification requiring the submission of a new application and issuance of a new permit. This does not apply in circumstances where a provider is transferring or rearranging its wireless facilities at the request of a third-party as part of that third-party's make ready work necessary to attach its facilities to the municipal/city/utility pole.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-5. Permitting of small wireless facilities.

(a) *Permitted use.* Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in this article I regarding height exceptions or variances, and subject to zoning review.

(b) *Small cell wireless agreement.* For applications involving municipal/city/utility poles, no permit shall be issued unless the applicant has first entered into a small cell wireless agreement with the city. Applications involving non-municipal/city/utility poles are not governed by this article.

(c) *Permit required.* An applicant shall obtain one or more permits from the city to collocate a small wireless facility on a municipal/city/utility pole. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) Application requirements. A wireless provider shall provide the following information to the city, together with the city's small cell facilities permit application, as a condition of any permit application to collocate small wireless facilities on a municipal/city/utility pole or wireless support structure:
 - (i) A copy of the small cell wireless pole attachment agreement between the city and the wireless provider;

- (ii) Site specific structural integrity established by pole loading and wind bearing studies and make-ready analysis prepared by a professional or structural engineer;
 - (iii) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
 - (iv) Specifications and drawings prepared by a professional or structural engineer, for each proposed small wireless facility covered by the application as it is proposed to be installed;
 - (v) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
 - (vi) A proposed preliminary schedule for the installation and completion of each small wireless facility covered by the application, if approved. This proposed scheduled can be altered by mutual agreement of the city and any wireless provider; and.
 - (vii) Certification that the collocation complies with the collocation requirements and conditions contained herein, to the best of the applicant's knowledge;
- (2) Application process. The city shall process applications related to municipal/city/utility poles as follows:
- (i) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
 - (ii) Within 15 days of receiving an application, the city shall determine and notify the applicant in writing whether the application is complete. If the application is incomplete, the city shall specifically identify the missing information in writing. The processing deadline in the below subdivision 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 mutual agreement of the applicant and the city.
 - (iii) An application to collocate a small wireless facility on an existing municipal/city/utility pole shall be processed on a nondiscriminatory basis within 60 days after the submission of a completed application.
 - (iv) The city shall deny an application if the proposed action in the application could reasonably be expected to:
 - (A) Materially interfere with the safe operation of traffic control equipment or city-owned communications equipment;
 - (B) Materially interfere with sight lines or clear zones for transportation, pedestrians, or nonmotorized vehicles;

- (C) Materially interfere with compliance with the Americans with Disabilities Act, 42 U.S.C. Sections 12101 to 12213, or similar federal or state standards regarding pedestrian access or movement;
 - (D) Materially obstruct or hinder the usual travel or public safety on the right-of-way;
 - (E) Materially obstruct the legal use of the right-of-way by the city, a utility, or other third party;
 - (F) Fail to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by ordinance or regulations promulgated by the state highways and transportation commission that concern the location of ground mounted equipment and new utility poles. The city's spacing requirements shall not prevent a wireless provider from serving any location and shall include a waiver, zoning, or other process that addresses wireless provider requests for exception or variance and does not prohibit granting of such exceptions or variances. Notwithstanding the foregoing ground mounted equipment shall be four feet from the municipal/city/utility pole;
 - (G) Fail to comply with applicable codes, including nationally recognized engineering standards for utility poles or wireless support structures;
 - (H) 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; or
 - (I) Fail to comply with reasonable and nondiscriminatory undergrounding requirements contained in the city's 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 this section or the provision of wireless services.
- (v) If the city determines that applicable codes, ordinances or regulations that concern public safety, or the collocation requirements and conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.
 - (vi) The city shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the revised application once within 30 days after notice of denial is

sent to the applicant without paying an additional application fee. The city shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the city's review period.

- (vii) Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this provision does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.
- (3) Small cell wireless agreement. At least 30 days prior to submitting an application for a permit to collocate a small wireless facility on a municipal/city/utility pole, the city and the applicant shall enter into a master pole attachment agreement, provided by the city for the initial collocation on a municipal/city/utility pole by the applicant.
- (4) Tolling. The time period for applications may be further tolled by: An express written agreement by both the applicant and the city; or a local, state or federal disaster declaration or similar emergency that causes the delay.
- (5) Consolidated applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the city may file a consolidated application for the collocation of up to five small wireless facilities provided all such small wireless facilities involve substantially the same type of small wireless facility and substantially the same type of support structures. Such consolidated applications shall be reviewed and processed within 90 days of receipt of the completed consolidated application. If an application includes multiple small wireless facilities, the city may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The city may issue separate permits for each collocation that is approved in a consolidated application.
- (6) Duration of permits. The duration of a permit shall be for a period of not less than five years, and the permit shall be renewed for equivalent durations unless the city makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable standards, safety and/or city codes or any provision, condition or requirement contained in this chapter. If this article VI is repealed, renewals of permits shall be subject to the applicable city code provisions or regulations in effect at the time of renewal. The provisions of this paragraph shall be subject to the right of the city to require, upon adequate notice and at the facility owner's own expense, relocation of facilities as may be needed in the interest of public safety and convenience, and the applicant's right to terminate at any time.

- (7) Means of submitting applications. Applicants shall submit applications, supporting information and notices to the city by personal delivery at the city's designated place of business, by mail.
- (8) Collocation completion deadline. Collocation for which a permit is granted shall be completed within six months after issuance of the permit or the completion of any required make ready work, whichever date is later, unless the city and the wireless provider mutually agree otherwise, or the wireless provider notifies the city that the delay is caused by a lack of commercial power or communications transport facilities to the site. Otherwise, the permit shall be void unless the city grants an extension in writing to the applicant.
- (9) Removal of abandoned small wireless facilities. The owner of a previously installed small wireless facility shall remove such facility within 90 days of the facility becoming non-operational or of the owner ceasing to use such facility. If the owner of such small wireless facility fails to timely remove the abandoned facility, the city may remove such facility at the owner's expense and without any liability resulting therefrom.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-6. Costs and scheduling of make ready work.

(a) The cost of all make ready work necessary to enable the municipal/city/utility pole to support the requested collocation by a wireless provider, as such cost is identified by the city in a good faith estimate, shall be paid prior to issuance of any permit. After receipt of such payment and issuance of a permit by the city, the city will cause the make ready work to be performed in accordance with this section and pursuant to a schedule that avoids conflict or interference with the city's prior work commitments and regular business operations. The make ready work will be completed within 60 days of written acceptance of the good faith estimate and advance payment by the applicant, unless otherwise mutually agreed to by the parties.

(b) Wireless providers shall pay for engineering work performed by the city related to municipal/city/utility poles, which includes, but is not limited to, analysis, field survey or inspection of the proposed wireless facilities. In addition, wireless providers shall pay all actual and documented costs (to the extent not paid pursuant to subsection (a) above), when incurred and billed, for the preparation of engineering documentation or work orders and drawings, that may be necessary to accommodate the wireless facilities, whether occurring prior to the placement of any wireless facilities on municipal/city/utility poles, or occurring subsequent to the placement of any wireless facilities on municipal/city/utility poles in connection with any post-construction inspection(s) to determine whether the wireless facilities have been attached properly, in accordance with the application and all applicable permits. The city shall provide the wireless provider with an invoice for all actual and documented costs incurred for such additional work.

(c) Wireless services providers shall be responsible for entering into an agreement with any existing third-party attaching entities to reimburse them for any costs that they incur in rearranging or transferring their facilities to accommodate the wireless provider's attachment(s).

(d) Wireless providers shall pay the actual and documented costs incurred by the city to upgrade or replace municipal/city/utility poles to which the wireless provider's facilities are attached if the upgrade or replacement is required solely by the addition or modification of the wireless providers' facilities or equipment, and to pay its proportionate share of the costs incurred by city to upgrade or replace municipal/city/utility poles if the upgrades or replacements directly benefit the wireless provider and other users to such municipal/city/utility poles and are made to meet the city's service needs, are made at the request of the wireless provider or an additional attaching party, or are made as a result of governmental order or regulation.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-7. Collocation requirements and conditions.

The following represent requirements and conditions applicable to the placement of small wireless facilities under this article I:

- (a) *City priority.* The city's use of municipal/city/utility poles for its own business operations will take precedence over all other uses of such poles. The city is not required to maintain any municipal/city/utility poles for a period longer than is necessitated by its own service requirements. In the event the city determines that it will no longer maintain a municipal/city/utility pole upon which any wireless facilities are attached, the city will send the relevant wireless services providers 60 days written notice that it will no longer maintain the pole. Such notice may be less than 60 days if the city is required by a governing authority to take action in regard to its pole and is given less than 60 days to take such action. In such event, the city may, in its sole discretion, offer the wireless services provider alternative space on another municipal/city/utility pole for the provider's wireless facilities, provided that such alternative space and pole are available. However, the city is not obligated to offer such alternative to a provider. The city may interrupt, suspend or stop wireless providers' transmission during any periods in which the city is working on a municipal/city/utility pole in which a wireless provider has a wireless attachment or wireless facility. Except in an emergency, the city will provide the wireless providers 24 hours' notice prior to any such interruption.
- (b) *Space reservation.* The city may grant access to municipal/city/utility poles subject to a reservation of space to reclaim such space, when and if needed, to meet the city's core utility purpose or documented city plan projected at the time of the application.
- (c) *Installation and maintenance.* The wireless provider shall, at its sole cost and expense, install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of

all applicable national, regional, state, local and municipal laws, statutes, ordinances, rules and regulations. Wireless providers shall secure a permit from the city to work within rights-of-way for activities that affect traffic patterns or require lane closures.

- (d) *Employees agents or contractors.* All employees, agents or contractors that perform work in connection with its small wireless facilities must be approved by the city and shall be journeymen linemen who are trained and pre-qualified, licensed, certified, bonded, and insured to provide communications worker contractor services, in compliance with all applicable national, regional, state, local and municipal requirements. All such workers shall have successfully completed the OSHA training programs for working within a ten foot safety working clearance zone over, under and around the city's energized primary, secondary and services lines. In addition, all such technicians shall undergo continuing training to maintain current skills and certifications in electric line safety methods and equipment and must be certified by the State of Missouri.
- (e) *Reimbursement of city costs.* In the event the city provides maintenance, removal replacement and/or relocation services to any wireless services provider as result of the wireless services provider failing to perform such services after notice given, then that provider shall pay to the city all actual and documented costs incurred as a result of the maintenance, removal replacement and/or relocation of that provider's attachments, facilities or ground equipment.
- (f) *Failure to comply and revocation.* In the event that notice is provided by a governmental body that a wireless services provider's or its carrier's use of any city pole hereunder is in violation of any municipal, state or federal law, statute, ordinance, rule or regulation over which said governmental entity has jurisdiction, or is not authorized by permit, license or other approval required from any governmental body, or in the event notice is provided by a property owner or joint owner of the pole of such violation or unauthorized use, the recipient of the notice shall have 30 days to respond to the city and contest the notice. If the notice is uncontested, then the city may elect, in its sole discretion, by written notice to the wireless services provider to revoke any permit granted under this chapter authorizing the wireless services provider's use of said pole, such revocation to be effective upon the 30th day following the date of such notice. In the event the city elects to revoke such permit after the recipient has failed to respond and contest the notice within 30 days, the wireless services provider shall remove its wireless facilities at wireless services provider's sole cost and expense, within 60 days from the date of the city's revocation notice. Any penalties assessed against the city or the property owner of the pole resulting from such violation or unauthorized use shall be the sole responsibility of the wireless services provider.
- (g) *City property.* All wireless services providers, their agents, contractors, and employees, shall not, under any circumstances whatsoever, touch, handle tamper with or contact, directly or indirectly, any of the city's facilities other than the municipal/

city/utility pole, without the express written consent of the city, which consent the city may not unreasonably withhold. The city shall not be held responsible for, and all wireless services providers shall expressly relieve the city from all liability by reason of injury, including death, or damage of any nature whatsoever to the wireless services providers, or to their agents, contractors, subcontractors, carriers, employees, invitees, customers and other who touch or are on the city poles, if such liability results from the negligence of the wireless service provider or its employees, agents, or contractors. In the event of a casualty or loss which results in the damage or destruction of the city's facilities to which a wireless services provider's wireless facilities are attached or located, the city shall have no obligation hereunder to rebuild or restore the city facilities; provided that in the event the city elects not to rebuild or restore the city's facilities, the permit in question shall immediately terminate. In such event, the city shall work in good faith to allow the wireless facilities to be attached on a reasonable alternative pole or location.

- (h) *Right to inspect.* The city reserves the right to make periodic inspections of all wireless facilities located on or about municipal/city/utility poles or city support structures, or a portion of same, as often as conditions warrant. If the city determines that corrections or changes need to be made to meet the applicable standards and specifications, all wireless services providers shall cause such corrections or changes to be made at their own expense. in the event the city requires any corrections or changes:
 - (1) Wireless services providers shall make all corrections or changes that could impact public safety immediately.
 - (2) Unless mutually agreed by a wireless services provider and the city, wireless services providers shall make all other corrections or changes within 30 days of written notice.
 - (3) Any corrections or changes not corrected or changed within the specified time will be deemed an unauthorized attachment.
- (i) *Bucket truck accessibility.* Due to safety concerns, all poles where antennas are to be installed must be bucket truck accessible and only on distribution or street light poles. For attachments to municipal/city/utility poles, the wireless provider shall discuss design and mounting of all antennas with Nixa City Utility Department prior to installation.
- (j) *No interference.* The wireless provider shall maintain its wireless facilities in such a manner so as not to endanger or interfere with the use of municipal/city/utility poles by the city or others granted a right to attach to said poles. Upon receipt of any notice from the city, Nixa City Utilities, any court or governmental entity that the wireless provider's operation of the small wireless facilities are failing to comply with FCC standards and regulations, and the wireless provider has been given an opportunity to show that it is in compliance and has exhausted all available appeals, the wireless provider will, at its sole cost and expense, immediately take all necessary steps to

comply with such standards and regulations. A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. In the event of interference that violates the FCC's standards and/or regulations:

- (1) If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the city, Nixa City Utilities, any court or governmental entity including a public safety agency, and the wireless provider has been given an opportunity to show that it is in compliance and has exhausted all available appeals, then the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.
 - (2) The city may terminate a permit for a small wireless facility based on such interference if the wireless provider has been given an opportunity to show that it is in compliance and has exhausted all available appeals and is not in compliance with the Code of Federal Regulations cited in the previous section. Failure to remedy the interference as required herein shall constitute a public nuisance.
 - (3) The uninterrupted operation of the city's facilities and the provision of electricity to its customers are of paramount importance hereunder and, therefore, any mitigating interference that may be caused to a wireless provider's facilities by the city's facilities, existing or future, shall be solely the wireless provider's responsibility and accomplished solely at the expense of the wireless provider. The wireless provider shall eliminate such interference by adjustment to its wireless facilities or by termination of the applicable permit. Under no circumstances shall the city be required to interrupt, suspend or alter its uses of the city's poles or facilities in order to accommodate the wireless provider or its rights granted hereunder, unless such interruption, suspension or alteration will not materially affect the city's operations.
- (k) *Safety zones.* The wireless provider shall not collocate small wireless facilities on municipal/city/utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole. However, the antenna and support equipment of the small wireless facility may be located in the communications space, as defined by the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers, on the city utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole. No work shall be completed in the electric supply

zone, as defined by the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers, without approval of the Nixa City Utility Department or without a properly authorized permit issued by the city. Likewise, amplifiers and equipment other than wireless devices will not be permitted in the electric supply zone or communication worker safety zone as these terms are defined by the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers. If pole communications equipment needs to be replaced, written notice will be used to notify attaching providers to transfer their equipment.

- (l) *Code and law compliance.* The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety. Disconnect, meter, and antenna equipment must be installed to comply with Nixa Utility Department construction standards. For municipal/city/utility poles, driven pole grounds shall be required for each antenna installation and installed per applicable code at a distance of four feet from the pole. The wireless providershall also comply with all historic district preservation laws or requirements.
- (m) *Protective equipment.* All wireless providers, their carriers, their employees and contractors shall utilize and install adequate protective equipment as required by the applicable standards and specifications to ensure the safety of people and facilities. The wireless services providers shall at their own expense install protective devices designed to handle the voltage and current impressed on their facilities in the event of a contact with the supply conduct.
- (n) *Aesthetic standards.* The wireless provider shall comply with written aesthetic standards that are objective, reasonable and published in advance, and are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a city ordinance, written policy adopted by the city, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district. All installation aesthetics must be mutually agreed to by the wireless provider and the city prior to installation.
- (o) *Height limitations.* Unless the parties mutually agree otherwise, all wireless facilities are to be mounted on structures 50 feet or less in height including their antennas, or mounted on structures no more than ten percent taller than other adjacent structures, or that do not extend existing structures on which the wireless facilities is located to a height of more than 50 feet or by more than ten percent, whichever is greater. The use of pole top extensions is discouraged.
- (p) *Height exceptions or variances.* If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a special use permit in conformance with procedures, terms and conditions set forth in the ordinances of the city.

- (q) *Contractual design requirements.* The wireless provider shall comply with requirements that are imposed by an existing contract between the city and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way. All such contracts shall be made publicly available. Any requirements shall not be limited solely to wireless providers.
- (r) *Ground-mounted equipment spacing.* The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances. Notwithstanding the foregoing all ground mounted equipment shall be four feet from the municipal/city/utility pole.
- (s) *Undergrounding regulations.* The wireless provider shall comply with local code provisions or regulations concerning reasonable and nondiscriminatory undergrounding requirements contained in local 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 that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- (t) *Sizing.* Unless mutually agreed by the wireless provider and the city, no one small cell wireless device greater than 36 x 24 x 12 inches in size (whether a receiver, transmitter or combination unit) will be permitted per pole and only one wireless provider is permitted on a single pole. Such placement shall be subject to pole loading and wind bearing studies.
- (u) *Antenna coax cable.* Antenna coax cable, unless mutually agreed by the wireless provider and the city, shall be installed with a maximum size of two inch diameter schedule 40 PVC conduit. Conduit supports must be installed every five feet. All such antenna coax cable shall be installed in accordance with the NESC.
- (v) *RF warning signs.* Two RF warning signs must be installed - one near pole top level where the safe approach level ends (for FCC General Population/uncontrolled power levels) and one near the base of the pole. These signs shall indicate the safe approach distance. Each sign shall also indicate the small cell wireless facility's owner's name and contact number where a representative may be reached 24 hours per day, seven days per week. All such signage shall be kept accurate and current.
- (w) *Disconnects.* All small wireless facilities and/or antennas under this article which require electrical power shall have disconnects allowing the utility to disconnect power to avoid RF exposure to its employees when working around any such device.

The city and its employees shall be permitted to cut power to any such facilities as is reasonable when working in or around any such small cell wireless facility or antenna for purposes of employee safety.

- (x) *No logos.* All wireless providers shall not, and will ensure all its carriers will not, place any logos, brand name identifiers or illumination on any city poles or equipment without the city's approval documented on the permit application.
- (y) *Notifications of work.* The city shall be notified 24 hours prior to when a contractor will be working in the approved area of the supply space. Such notification shall include the date and time the work is to be performed, the contractor's company name, the names of the individuals performing the work, and a description of work to be performed. Once the work has been completed and before leaving the work site, the contractor will notify the city that the work has been completed and they will be leaving the site.
- (z) *Reports.* All wireless facilities shall be clearly labeled on each pole location with the wireless services provider's name and a telephone number where a representative of the provider can be reached 24 hours a day, seven days a week to receive reports of problems with the facilities. All labels shall be kept accurate and current. The wireless services provider shall investigate all such reports in a timely manner and perform all necessary repair and maintenance to remedy such problems. For purposes of this subsection: "Timely manner" means a remote response is made within four hours of the initial report and an on-site response is made within 24 hours of the initial report if an emergency, and within 30 days if not an emergency.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-8. Applicable fees and charges.

(a) *Application fee.* The following application fees are hereby imposed as follows as they relate to this article and the placement on municipal/city/utility poles: (1) For municipal/city/utility poles, applicant shall pay an application fee as established in section 2-151 of this Code for an application to place up to five small wireless facilities. Each small wireless facility beyond the initial five will cause an additional application fee as established in section 2-151 of this Code.

(b) *Application fee due.* Applications pursuant to this article shall be accompanied by the required application fee. Application fees are nonrefundable.

(c) *Additional charges or fees.* The city shall not require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for: (1) routine maintenance; (2) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider includes equipment specifications for the replacement of equipment consistent with sections 25-5(c)(1)(iv) and 25-5(c)(1)(v) under the section titled application requirements; or (3) the installation,

placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

(d) *Charges for corrective actions by city.* Wireless service providers shall pay to the city all actual and documented costs incurred by the city for correcting, transferring, removing or other services rendered within 30 days from the date of receipt of invoice from the city.

(e) *Charges for unauthorized attachments/facilities.* The attachment of any wireless facility, attached to or installed within four feet of city poles, or the modification of any such wireless facility, not listed on provider's inventory and done without the approval of the city pursuant to the terms of this chapter, shall be considered an unauthorized attachment of the wireless facility. In the event of unauthorized attachment, the wireless services provider shall pay the city for each unauthorized wireless facility, the rent for such unauthorized attachment back to the date of the last audit, as well as be guilty of a violation of the city's ordinances punishable in accord with section 1-9. Such fees shall be paid by the wireless services provider without prejudice to any of the city's other rights under this chapter, including the city's right to remove such unauthorized facilities.

(Ord. No. 2069, § I, 8-12-2019; Ord. No. 2331, § 20, 10-23-2023)

Sec. 25-9. Annual attachment rate.

(a) Wireless providers shall pay \$270.00 annually for each small wireless facility attached to a municipal/city/utility pole.

(b) For municipal/city/utility poles, the city reserves the right to charge a higher annual attachment rate and so collect any shortfall upon showing by a reasonable approximation that the reasonable and nondiscriminatory actual costs incurred by the city as a result of the small wireless facility exceeds \$270.00 annually for each small wireless facility.

(c) Non-functioning wireless facilities shall continue to be assessed annual rent for the wireless facilities that are no longer in service or operation until they are removed from the city pole or support structure.

(d) The wireless service provider is solely responsible for all fees, rates, rents, and/or penalties accessed, regardless of whether the wireless facilities are leased or sublicensed to a carrier.

(e) Notwithstanding the foregoing, the city shall not collect any shortfall that was incurred more than 24 months prior to such request.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-10. Audits and list of attachments/facilities and locations.

(a) Wireless services providers shall install their wireless facilities only in the municipal/city/utility poles authorized and permitted by the city.

(b) The city may revoke a wireless services provider's permit to use a municipal/city/utility pole for noncompliance with a term or terms of this article or with the small cell wireless agreement, if any, subject to the notice and right to cure procedures for a default in the small cell wireless agreement.

(c) Upon request of either party, or every five years, an official audit will be conducted to determine the number, type and locations of all wireless facilities located on or about city poles and/or city support structures. The cost of said audit shall be split proportionally between all the wireless services provider as it relates to municipal/city/utility poles.

(d) All wireless services providers shall maintain a list of their wireless facilities with locations and shall provide said list to the city on December 31st of each year.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-11. Exceptions to applicability.

(a) Unless otherwise mutually agreed, this article does not authorize the use of the city's transmission structures, which are those structures used to support electric circuit of 60,000 volts and higher

(b) Nothing in this article authorizes a person to collocate small wireless facilities on:

(1) Property owned by a private party or property owned or controlled by the city or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without the consent of the property owner;

(2) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-12. Abandonment.

(a) A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the city notifying the wireless provider of the abandonment. The notice shall be sent by certified or registered mail, return receipt requested, by the city to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the city may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

(b) A wireless provider shall provide written notice to the city if it sells or transfers small wireless facilities within the jurisdiction of the city. Such notice shall include the name and contact information of the new wireless provider.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-13. Insurance and bonding.

Insurance policies required. Unless a wireless provider has more than \$25,000,000.00 in assets, at all times a wireless provider that has facilities or attachments on city/municipal/utility pole, the wireless provider shall keep in force and affect all insurance policies and bonds required by section 24-2 and section 24-5.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-14. Liability.

(a) As it relates to the attachment to municipal/city/utility poles, to the extent permitted by Missouri or Federal law, any wireless providers who place attachment(s) on such poles shall defend and hold harmless the city, its directors, officers, employees, shareholders, agents, contractors, subcontractors, successors and assigns (the "Indemnitees") from and against any and all third-party claims, including any claims by its carriers, demands, actions, causes of action, liabilities, judgments, obligations, costs or expenses for any damage to property, or for injury to or death of any person or persons, or any other costs or expenses, including without limitation reasonable attorneys' fees and costs, related to, arising out of or connected with the placement, use, operation, repair, modification or removal of any of the wireless provider's wireless facilities pursuant to this article; provided, however, that no wireless provider shall have any obligation hereunder to indemnify any indemnitees for their own negligence or misconduct. The foregoing indemnification shall include, but not be limited to, claims made under any worker's compensation law or under any plan for employee's disability and death benefits, including, without limitation, claims and demands that may be asserted by the wireless services provider, its carriers, employees, agents, contractors or subcontractors. All wireless services providers shall immediately notify the city of any such claims, demands, damages, injuries or deaths, and shall provide a written report, or other pertinent material or information, if requested.

(b) All wireless provider who constructs or attaches any device or facility to any municipal/city/utility pole accepts the use of those city poles and city support structures in their as-is, where-is condition, with all faults.

(c) Any wireless provider with attachments on municipal/city/utility poles shall be liable for and promptly reimburse the city, except to the extent of the city's own willful misconduct, and any authorized municipal/city/utility pole user for expenses incurred in repairing or replacing such poles or any facilities damaged or destroyed, if such damage or destruction is caused by or results from, in whole or in part, the wireless provider's or its carrier's negligence, recklessness or willful misconduct.

(d) All wireless services providers shall conduct their operations, and insure those of its carriers, and otherwise use or occupancy of municipal/city/utility poles hereunder in compliance with all applicable environmental laws and shall not cause any hazardous materials to be introduced to or handled on or about city poles hereunder. To the extent permitted by Missouri or Federal Law, wireless provider will indemnify and shall defend and hold harmless the city from and against any suits, damages, injuries, costs and expenses of

any kind including, without limitation, court costs, reasonable attorney and consultant fees, remediation costs, fines and penalties, whether asserted under environmental laws or at common law, arising out of or related to: (a) any violation hereunder by the wireless provider, its carriers, its employees, agents, or contractors of any environmental laws; or (b) the presence, release or threatened release of any hazardous materials at, on or about city poles hereunder caused by the wireless provider, its carriers, its agents, employees, contractors, subcontractors, or any entity in privity with or providing a benefit to the wireless services provider; provided, however, that the wireless services provider shall have no obligation to so indemnify any indemnitee from such indemnitee's own negligence or misconduct. The foregoing indemnification provisions, to the extent permitted by Missouri and Federal law, shall survive the termination of any small cell wireless agreement with any wireless provider.

(e) No provision of this article is intended, or shall be construed, to be a waiver for any purpose by the city of any applicable immunities or state limits on municipal liability or governmental immunity.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-15. Notification.

(a) The above notwithstanding, all wireless providers shall write communications related to permit applications and approval process and necessary transfer or pole modifications.

(b) All wireless providers shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where the city can contact the wireless provider to report damage to that wireless provider's wireless facilities or other situations requiring immediate communications between the provider and the city. Such contact person shall be qualified and able to respond to the city's concerns and requests regarding its wireless facilities. Failure to maintain an emergency contact shall be a violation of the city's ordinances, and shall eliminate the city's liability to that wireless services provider for any actions that the city deems reasonably necessary given the specific circumstances.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-16. Force majeure.

If either the city or a wireless services provider is prevented or delayed from fulfilling any provision of this article by reason of fire, flood, earthquake, or like acts of nature, wars, revolution, civil commotion, explosion, acts of terrorism, embargo, acts of the government in its sovereign capacity, material changes of laws or regulations, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, unavailability of equipment of vendor, or any other such cause not attributable to the negligence or fault of the city or the wireless services provider delayed in performing the acts required by this article, then performance of such acts shall be excused for the period of the unavoidable delay, and the entity affected shall endeavor to remove or overcome such inability as soon as reasonably possible.

(Ord. No. 2069, § I, 8-12-2019)

Secs. 25-17—25-22. Reserved.

ARTICLE II. SMALL WIRELESS DEVICE STANDARDS FOR PLACEMENT ON NON-MUNICIPAL/CITY/UTILITY POLES

Sec. 25-23. Applicability.

(a) To the extent permitted by law, this article II shall apply to all persons desiring to construct, operate, or maintain small wireless facilities within the city which are not located on utility poles owned by the municipality.

(b) Chapter 24 concerning the use of city property and right-of-way is applicable to the placement of small wireless telecommunications facilities as provided for in this article. In the event of any conflict between the provisions of this article and chapter 24, this article shall govern.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-24. Definitions.

(a) *Definitions and usage - General.* For the purposes of this article II, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense and vice versa, words in the plural number include the singular number and vice versa, and masculine gender includes the feminine gender and vice versa. The words 'shall' and 'will' are mandatory, and 'may' is permissive. 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 § 67.5110-67.5121 RSMo, and if not defined therein, the city code, and, if not defined therein, their common and ordinary meaning. For further convenience, the first letter of terms, phrases, words, and abbreviations defined in this article have been capitalized, but an inadvertent failure to capitalize such letter shall not affect its meaning, nor shall the inadvertent capitalization of the first letter of a term, phrase, word or abbreviation not defined herein affect the meaning thereof.

(b) *Defined terms:*

- (1) *Antenna*, communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;
- (2) *Applicable codes and applicable standards*, 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 (i.e. National Electrical Safety Code, National Electrical Code, Occupational Safety and Health Administration, etc.), and reasonable, non-discriminatory standards and specifications of the city;
- (3) *Applicable law*, state and federal law and regulation applicable to the construction, installation, deployment or collocation of wireless facilities and utility poles,

including those laws and regulations of general applicability that do not apply exclusively to wireless facilities or wireless providers such as local ordinances and state law relating to use of right-of-way;

- (4) *Applicant*, any person who submits an application and is a wireless provider;
- (5) *Application*, 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, substantial modification, or replacement of a utility pole;
- (6) *City utility pole* means an electrical distribution pole, which the highest voltage on such pole is equal to or less than 15 kilo volts, that the city owns and is maintained by the city in its capacity as a municipal electric utility. It does not include poles and other structures that are included in the definition of "utility pole." City utility poles and city electric utility facilities are expressly excluded from this article, as well as the provisions of 67.5111 through 67.5122, RSMo. No provision of this article shall apply to city utility poles or city electric utility facilities;
- (7) *Collocate or collocation*, 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;
- (8) *Communications facility*, the set of equipment and network components, including wires, cables, and associated facilities used by a cable operator, as defined in 47 U.S.C. Section 522(5); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); a provider of information service, as defined in 47 U.S.C. Section 153(24); or a wireless services provider; to provide communications services, including cable service, as defined in 47 U.S.C. Section 522(6); telecommunications service, as defined in 47 U.S.C. Section 153(53); an information service, as defined in 47 U.S.C. Section 153(24); wireless communications service; or other one-way or two-way communications service;
- (9) *Decorative pole*, a City-owned pole that is specially designed and placed for aesthetic purposes;
- (10) *Fee*, a one-time, nonrecurring charge;
- (11) *Historic district*, 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 C.F.R. 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;

- (12) *Make ready* all work that the city reasonably determines to be required prior to attachment by the applicant to accommodate the small wireless attachment(s) and/or to comply with all applicable standards. Such work includes, but is not limited to, rearrangement and/or transfer of existing attachments and/or facilities, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole replacement and construction, but does not include routine maintenance.
- (13) *Micro wireless facility*, a small wireless facility that meets the following qualifications: (i) Is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and (ii) Any exterior antenna no longer than 11 inches;
- (14) *Permit*, a written authorization from a designated city department 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 or other wireless support structure in or outside the right-of-way for any purpose;
- (15) *Rate*, a recurring charge;
- (16) *Right-of-way*, 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;
- (17) *Small wireless facility*, a wireless facility that meets both of the following qualifications: (i) Each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) 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;
- (18) *Substantial modification*, excludes modifications which are less than those listed in this definition. Substantial modification means the mounting of a proposed wireless facility on a wireless support structure which, as applied to the structure as it was originally constructed:
 - (i) Increases the existing vertical height of the structure by:
 - (A) More than ten percent; or

- (B) The height of one additional Antenna array with separation from the nearest existing Antenna not to exceed 20 feet, whichever is greater; or
- (ii) Involves adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure more than 20 feet or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable);
 - (iii) Involves the installation of more than the standard number of new outdoor equipment cabinets for the technology involved, not to exceed four new equipment cabinets; or
 - (iv) Increases the square footage of the existing equipment compound by more than 1,250 square feet.
- (19) *Technically feasible*, 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;
- (20) *Utility pole*, a pole or similar support 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, but does not include "city utility poles", as defined above, or city electrical facilities;
- (21) *Wireless facility*, 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: (i) The structure or improvements on, under, or within which the equipment is collocated; (ii) Coaxial or fiber-optic cable between wireless support structures or utility poles; (iii) Coaxial or fiber-optic cable not directly associated with a particular small wireless facility; or (iv) A wireline backhaul facility;
- (22) *Wireless infrastructure provider*, 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;
- (23) *Wireless provider*, a wireless infrastructure provider or a wireless services provider;
- (24) *Wireless services*, 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;
- (25) *Wireless services provider*, a person who provides wireless services;

- (26) *Wireless support structure*, an existing or proposed 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.
- (27) *Wireline backhaul facility*, 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.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-25. General standards.

- (a) Neither the city, nor any person owning, managing, or controlling utility poles, excluding 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, substantial modification, maintenance, management, or replacement of utility poles within the right-of-way, or for the right to attach to such utility poles within the right-of-way.
- (b) The city, in applying the provisions of this article will act in a competitively neutral manner with regard to other users of the Right-of-Way.
- (c) Nothing in this article 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 article 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 standards and applicable codes, existing city ordinances, or this article, 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 subsection (h) of section 11-26 of this chapter, and except for facilities excluded from evaluation for effects on historic properties under 47 C.F.R. 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, which are published on the city's webpage, for small wireless facilities or utility poles. The city's aesthetic standards do not have the effect of prohibiting any wireless provider's technology, and no measures required by the city's aesthetic standards are to 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 wireless providers' own expense, shall relocate wireless facilities, utility poles and wireless support structures as may be needed in the interest of public safety and convenience.

(h) Except as otherwise provided in this article 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 article 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 the passage of this article, which were approved by the city by permit or agreement may remain installed and be operated under the requirements of this article.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-26. Permitting provisions.

(a) *Permit requirements inside the right-of-way.* Any applicant 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) Subject to the provisions of sections 67.5090 through 67.5103 and 67.5110 through 67.5121, RSMo and applicable federal law, the collocation of small wireless facilities and the installation, maintenance, substantial modification, operation, and replacement of utility poles along, across, upon, and under the right-of-way are subject to zoning, land use, planning review and permitting authority, except the city shall not have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not owned or controlled by the city, other than to comply with applicable codes. Nothing in this chapter authorizes the city to require wireless facility deployment or to regulate wireless services.

(2) The city may require a permit, on a nondiscriminatory basis, 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.

(3) Small wireless facilities and utility poles shall be installed and maintained so as not to:

- (i) Materially interfere with the safe operation of traffic control equipment or city-owned communications equipment;
- (ii) Materially interfere with sight lines or clear zones for transportation, pedestrians, or nonmotorized vehicles;

- (iii) Materially interfere with compliance with the Americans with Disabilities Act, 42 U.S.C. Sections 12101 to 12213, or similar federal or state standards regarding pedestrian access or movement;
 - (iv) Materially obstruct or hinder the usual travel or public safety on the right-of-way;
 - (v) Materially obstruct the legal use of the right-of-way by the city, a utility, or other third party.
- (4) Small wireless facilities and utility poles shall be installed and maintained so as to:
- (i) Comply with reasonable and nondiscriminatory spacing requirements of general application adopted by ordinance or regulations promulgated by the state highways and transportation commission that concern the location of ground mounted equipment and new utility poles. Such spacing requirements shall not prevent a wireless provider from serving any location.
 - (ii) Comply with applicable codes and applicable standards, including nationally recognized engineering standards for utility poles or wireless support structures;
 - (iii) Comply with the reasonably objective and documented aesthetics of a decorative pole and to pay to match the applicable decorative elements; and
 - (iv) Comply with reasonable and nondiscriminatory undergrounding requirements established by the city prior to 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 substantial modification of existing utility poles in a right-of-way without prior approval, and the city shall provide a process for waiver or variance for the installation of such utility poles and such undergrounding requirements will not prohibit the replacement or substantial modification of existing utility poles consistent with this section or the provision of wireless services.
- (5) A new, replacement, or modified utility pole, including any attached antennas, installed in the right-of-way shall not exceed the greater often feet in height above the tallest existing utility pole in place as of January 1, 2019, located within 500 feet of the new pole in the same right-of-way, or 50 feet above ground level. 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, or for small wireless facilities on a new utility pole, above the height permitted for a new utility pole under this section. A new, modified, or replacement utility pole that exceeds these height limits shall be subject to any applicable zoning requirements that apply to other utility poles and are consistent with sections 67.5090 to 67.5103.
- (6) A wireless provider shall be permitted to replace decorative poles when necessary to collocate a small wireless facility, but any replacement pole shall comply with the reasonably objective and documented aesthetics of a decorative pole and the provider must agree to pay to match the applicable decorative elements.

- (8) The city may require replacement of a 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 utility pole structurally unsound.
- (b) *Permit requirements - Outside the right-of-way.*
- (1) The collocation of small wireless facilities in or on city property shall be subject to zoning review and permit approval, except when the collocation is in an interior structure or upon the site of any campus, stadium, or athletic facility not owned or controlled by the city, other than to comply with applicable codes.
- (2) The city will allow collocation of small wireless facilities on city wireless support structures, excluding 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 an annual rate per attachment of \$150.00, excluding:
- (i) Application/permitting fees;
 - (ii) Make ready costs;
 - (iii) Applicable personal property and sales taxes or generally applicable fees for encroachment or electrical permits;
 - (iv) Applicable fair and reasonable linear foot fees as provided in subsection 1 of Section 67.1846.1 RSMo. associated with coaxial or fiberoptic cable in the right-of-way that is:
 - (aa) Between wireless support structures or utility poles;
 - (bb) Not directly associated with a particular small wireless facility; or
 - (cc) A wireline backhaul facility.
- (3) The city shall not enter into an exclusive agreement with a wireless provider concerning utility poles or city wireless support structures, excluding city utility poles, that are located on city property outside the right-of-way, including stadiums and enclosed arenas, unless the agreement meets the following requirements:
- (i) 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,
 - (ii) 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 applicant 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 planning and development director. The city planning and development director shall design and make available to applicants a standard application form, consistent with the provisions of this article, which all applicants must use in order to accomplish the purposes of this article. Except for the requirements in subsection 2 below, an applicant shall not be required to provide more information to obtain a permit under this article than other communications service providers that are not wireless providers.

- (2) An application for a permit shall include the following:
 - (i) Two sets of construction and engineering drawings which demonstrate compliance with the city's applicable standards, applicable codes, along with the city's small cell aesthetic standards and small cell standards and specifications that are consistent with this ordinance and state law. The first set of drawings shall be in an electronic format as the city requests and the second set to be paper copies;
 - (ii) Specifications of the small wireless facilities consistent with the size and volumetric limitations in the definition of small wireless facility;
 - (iii) Information on the height of any new, replacement, or modified Utility Pole;
 - (iv) Applicable indemnity, insurance, performance bond information required in section 11-235;
 - (v) 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.
 - (vi) Plans and detailed cost estimates for any make-ready work as needed. The applicant shall be solely responsible for the reasonable cost of any make-ready work.
 - (vii) 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 planning and development director such dates once they are determined but no less than 30 days prior to any work commencing at the designated site of the permit.
- (d) *Fees and rates.* Each such application shall be accompanied by payment of fees as designated in this article.
 - (1) General. Unless stated otherwise in this ordinance:
 - (i) Any fees collected pursuant to this subsection will be used only to reimburse the city for its actual incurred reasonable costs and will not be used to generate revenue to the city above such costs.

- (ii) The city may not require or accept in-kind services in lieu of any fee.
 - (iii) The rates to collocate on utility poles or city support structures shall be nondiscriminatory regardless of the services provided by the collocating applicant.
- (2) Application Fee.
- (i) The total fee for an application for the collocation of a small wireless facility on an existing utility pole is \$100.00 per small wireless facility.
 - (ii) An applicant filing a consolidated application shall pay \$100.00 per small wireless facility included in the consolidated application.
 - (A) An applicant seeking to collocate small wireless facilities on city owned property will be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities; provided, however, the denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same batch;
 - (B) A consolidated 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.
 - (C) In rendering a decision on an application for multiple small wireless facilities, the city may approve the application as to certain individual small wireless facilities while denying it as to others based on applicable requirements and standards, including those identified in this ordinance.
 - (D) The city's denial of any individual small wireless facility or subset of small wireless facilities within an application shall not be a basis to deny the application as a whole;
 - (iii) The total fee for an application for the installation, substantial modification, or replacement of a utility pole and the collocation of an associated small wireless facility will not exceed \$500.00 per utility pole.
- (3) Collocation rate.
- (i) The rate for collocation of a small wireless facility to a utility pole or city support structure is \$150.00 per utility pole or city support structure per year.
- (4) Right-of-way permit fee.
- (i) All right-of-way fees shall be included in the application fee associated with the installation of small wireless facilities in the right-of-way and the total application fee is \$100.00.

(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 subdivision 2 of this subsection 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, substantially modified, or replacement utility pole associated with a small wireless facility within 60 days of receipt of the completed application. The application shall be deemed approved if not approved or denied within this 60-day period. This period may be extended by agreement of the city and the applicant.
- (4) An applicant may file a consolidated application as defined in subdivision (d)(2)(ii)(bb) of this subsection and receive a single permit for the collocation of multiple small wireless facilities. 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, 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(s).
- (5) The city shall provide a good faith estimate for any make-ready work necessary to enable a 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:
 - (i) The city shall document the complete basis for a denial in writing and send the documentation to the applicant on or before the date the city denies the application.

- (ii) The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application Fee.
 - (iii) The city shall approve or deny the revised application within 30 days of receipt of the completed application. 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, substantial modification, or replacement of utility poles to support small wireless facilities.
- (i) Notwithstanding the foregoing, an authority may impose a temporary moratorium on applications for small wireless facilities and the collocation thereof for the duration of a federal or state-declared natural disaster plus a reasonable recovery period, or
 - (ii) 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, substantial modification, or replacement of a utility pole otherwise meeting the requirements of subsections (a) or (b) 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; or
 - (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 substantial modification of existing utility poles in a right-of-way without prior approval, and the city shall provide a process for waiver or variance for the installation of such utility poles and such undergrounding requirements will not prohibit the replacement or substantial modification of existing utility poles consistent with the section and the provisions of wireless services.

- (9) Any other reason not prohibited by applicable law.
- (g) *Approval of an application.*
 - (1) The city planning and development director shall review each application for a permit and, upon determining that: (i) the applicant has submitted all necessary information; (ii) there is no lawful basis to deny the application; and (iii) the applicant has paid the appropriate fees, the city planning and development director shall issue the permit.
 - (2) If the city approves an application, the applicant is authorized to:
 - (i) Undertake the installation or collocation;
 - (ii) Operate and maintain the 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 (f) of this section and current on payment of all annual rates due.
 - (3) In determining whether sufficient capacity exists to accommodate the attachment of a new small wireless facility, the city will grant access subject to a reservation to reclaim such space, when and if needed, to meet the pole owner's core utility purpose or documented city plan projected at the time of the application pursuant to a bona fide development plan, unless such attachment of the small wireless facility will affect the safety of the public using the right-of-way.
- (h) *No application required.* No application is required for the following activities, operation, modification, maintenance or repair however notification to the city is required for:
 - (1) Routine maintenance on previously permitted small wireless facilities;
 - (2) The replacement or modification 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 standards and applicable codes. Written notice shall be provided 30 days prior to any such installation, placement, maintenance, operation, or replacement.

- (4) 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.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-27. General standards.

(a) The construction, operation, substantial modification, maintenance, and repair of small wireless facilities shall be in accordance with federal, state and local applicable standards, applicable codes and relevant city ordinances pertaining to construction, operation, substantial modification, 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, operation, substantial modification, maintenance or repair of small wireless facilities shall be repaired or replaced within 30 days by the applicant to its functional equivalence as existed before the disturbance or damage after the operation, substantial modification, maintenance or repair has been completed. This time period may be altered upon mutual consent of the city and the applicant.

(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 the wireless services provider's permits, along with the federal, state and local applicable standards, applicable codes and applicable law and shall be responsible for promptly correcting any acts or omissions by a wireless infrastructure provider, contractor or subcontractor.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-28. Indemnity, insurance, performance bonds.

(a) 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) Wireless providers must maintain insurance to the extent required of others making use of the right-of-way as provided in section 24-5.
- (c) As part of the permit process, a wireless provider must post a performance bond of \$1,500.00 per small wireless facility.
- (1) The total bond amount may not exceed \$75,000.00 for all facilities, which amount may be combined into a single bond instrument. The purpose of the performance bond is to:
- (i) 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;
 - (ii) Restore the right-of-way in connection with removals of small wireless facilities from the right-of-way; and
 - (iii) 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.
- (2) 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) 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. However, the indemnification provisions of this section remain in full force and effect. 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. The affidavit shall further state that in the event applicant's assets cease to be valued at more than \$25,000,000.00, then applicant shall comply with the insurance and bonding requirements of this Section.
- (Ord. No. 2069, § I, 8-12-2019)

Sec. 25-29. Miscellaneous provisions.

- (a) *Compliance With laws.* Each applicant shall comply with all applicable city ordinances, resolutions, rules and regulations heretofore and hereafter adopted or established, to the extent that they are consistent with state or federal law.
- (b) *Franchises not superseded.* Nothing herein shall be deemed to relieve an applicant of the provisions of an existing franchise, license or other agreement or permit.

(c) *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.

(d) *Incorporation by References:* 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.

(e) *Calculation of time:* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this chapter, 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.

(f) *Federal and state law.* This article, along with any executed small cell wireless agreements, may be amended, modified, vacated or terminated at any time to comply with state and/or federal laws and/or regulations, as well as the ruling of a court of law of competent jurisdiction which addresses issues regarding small wireless facilities and/or any FCC Order or Ruling.

(g) *Severability:* If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision that has been held invalid is no longer invalid, said provisions shall there upon return to full force and effect without further action by the city and shall thereafter be binding on the applicant and the city.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-30. Annexation.

The provisions hereof shall specifically apply to any lands or property annexed as of the date of such annexation.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-31. 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.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-32. Standards applicable to city.

Any standards in this article relating to small wireless facilities shall be fully applicable to work performed by the city and its departments.

(Ord. No. 2069, § I, 8-12-2019)

Sec. 25-33. Savings clause.

This ordinance shall be in full force and take effect from and after the date of its final passage by the city Council and approval by the mayor.

(Ord. No. 2069, § I, 8-12-2019)

Chapter 26

HUMAN RIGHTS

- Sec. 26-1. Reasonable accommodation procedure scope and purpose.
- Sec. 26-2. Accommodation procedure—Requesting reasonable accommodation.

Sec. 26-1. Reasonable accommodation procedure scope and purpose.

- (a) Under the Rehabilitation Act of 1973, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and the Americans with Disabilities Amendments Act of 2008, 42 U.S.C. § 12101, the City of Nixa, Missouri, has dual ongoing obligations to those with physical and mental disabilities. Employees with disabilities shall be given reasonable accommodations that will enable them to perform their jobs. Citizens with disabilities shall be given reasonable accommodations to ensure equal access to local government. Beyond legal obligations, the city has a strong institutional interest in providing reasonable accommodations that will allow employees and citizens with disabilities to continue to contribute and participate at the highest levels. The city is committed to careful consideration of all requests for reasonable accommodation of a disability. The city makes every effort to equitably provide services to all persons.
- (b) This Section and Section 2-5, along with any implementing regulations, have been prepared which describe the City of Nixa's policies and general procedures for processing reasonable accommodation requests by job applicants, employees and citizens. Each department will strive to work in coordination with other departments in efficiently resolving each request for reasonable accommodation. Each department should make every effort to wisely and expeditiously facilitate the procurement of equipment, assistive devices and services requested by job applicants, employees and citizens with disabilities. The process for providing reasonable accommodations requires the cooperation of employees, their supervisors, and administration to achieve a common goal: to ensure to the maximum extent possible that qualified individuals are given the reasonable accommodations necessary to fully integrate within the government of the City of Nixa.

(c) Any person with one or more disabilities, or his or her agent, may request a reasonable accommodation in accordance with the Americans with Disabilities Act (ADA) with respect to the services, activities, programs, benefits or employment and hiring practices of the City of Nixa. Nothing in this Section requires persons with disabilities or their representative to seek reasonable accommodation under this Section.

(Ord. No. 2100, § I, 1-27-2020)

Sec. 26-2. Accommodation procedure—Requesting reasonable accommodation.

- (a) *Right To file.* Any individual or group representing an individual who believes that he/she has been discriminated against in a city sponsored service, program, activity or benefit because of disability status shall have the right to file a written complaint using the city's standard request for reasonable accommodation form, being submitted by e-mail, fax or in person at City Hall or to the ADA Coordinator. A request for reasonable accommodation may be submitted alternately using a variety of formats, including recorded oral statement. The request for reasonable accommodation should contain pertinent information to thoroughly evaluate the request such as the following:

- (1) The full name of the person requesting reasonable accommodation.

- (2) Full contact information, which may include: phone number, alternate phone numbers, mailing address, physical address, and e-mail address.
 - (3) Location of incident, if applicable.
 - (4) Suggested corrective actions that may be acceptable by the person requesting the reasonable accommodation.
 - (5) Name of government entity or department which is believed to have discriminated.
 - (6) Contact information of witnesses, and additional pertinent information.
 - (7) Nature of the disability that requires reasonable accommodation.
 - (8) The person requesting the reasonable accommodation may also provide information as to whether the reasonable accommodation may afford benefit to others.
- (b) *Assistance in filing.* The City of Nixa will, upon request, provide assistance to the person requesting the reasonable accommodation as necessary to complete and submit the request for reasonable accommodation. Upon the city's receipt of the necessary information to process the request form, the city will use the information to complete the request for reasonable accommodation form.
- (c) *Assistance in appeal.* The City of Nixa will provide the assistance necessary to any person requesting the reasonable accommodation to appeal a denial of a request for reasonable accommodation to ensure the appeal process is accessible to the person making the request. The person requesting the reasonable accommodation is entitled to be represented at all stages of the proceedings identified in this section by a person designated by the person making the request.
- (d) *Confidentiality of medical information.* Should the information provided by the person requesting reasonable accommodation to the City of Nixa include medical information or records, including records indicating the medical condition, diagnosis or medical history of the person requesting reasonable accommodation, the person requesting reasonable accommodation may, at the time of submitting such medical information, request that the City of Nixa, to the extent allowed by law, treat such medical information as confidential.
- (e) *Request of medical information.* The City of Nixa shall provide written notice to the person requesting reasonable accommodation, and any designee representing that person in the application proceeding, of any request received by the City of Nixa for disclosure of the medical information or documentation which the person requesting reasonable accommodation has previously requested be treated as confidential. The City of Nixa will cooperate with the person requesting accommodation, to the extent allowed by law, in actions initiated by the person requesting reasonable accommodation to oppose the disclosure of such medical information or documentation.
- (f) *Jurisdiction.* Under the authority of the city administrator, the ADA Coordinator shall consider and act on requests for reasonable accommodation. When a request for reasonable accommodation in the hiring and application processes is filed with the City of Nixa, it will be referred to the ADA Coordinator and the director of human resources for review and

consideration. When a request for reasonable accommodation in the workplace is made by a current employee, it will be referred to the director of the appropriately corresponding department and the ADA Coordinator. When a request for reasonable accommodation in city-provided services, programs or activities is received, the city administrator shall refer the matter to the ADA Coordinator and appropriate departmental director for appropriate response. Requests for reasonable accommodation requiring the attention of more than one department shall be overseen by the city administrator or his designee. The ADA Coordinator shall serve to aid in determination, facilitation and coordination of any request requiring more than one department. Within this section hereafter, city personnel authorized by the city administrator shall be referred to as staff.

(g) *Request procedure.* Requests for reasonable accommodation and reporting of any findings and determinations for reasonable accommodation under the ADA will be administered according to the most recent edition of the city's request for reasonable accommodation procedure as established by the city administrator and adopted by city council resolution, and according to any standards adopted pursuant to this section.

(h) *Findings for reasonable accommodation.*

- (1) The following findings, while not exhaustive of all considerations and findings that may be relevant, must be made before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record relating to such approval or denial:
 - i. Whether the requested accommodation would require an alteration to the fundamental nature of the relevant service, activity, program, benefit, job description or hiring practices of the City of Nixa.
 - ii. Whether the requested accommodation would impose undue financial or administrative burdens on the City of Nixa.
- (2) A request for reasonable accommodation shall not be denied for reasons which violate the provisions of the ADA. This order does not obligate the city to grant any accommodation request unless required by the provisions of the ADA or applicable Missouri State law.
- (3) In addition to the accessible format utilized for the response, any notice of determination shall be in writing and sent to the person requesting reasonable accommodation by certified mail, return receipt requested and by regular mail. All determinations shall state the grounds therefor, and shall give notice of the right to appeal, including stating the right to request reasonable accommodation in the appeals process.

(i) *Appeals.*

- (1) Appeals processes for reasonable accommodation under the ADA will be administered according to the ADA, the adopted edition of the city's request for reasonable accommodation procedure, and according to any standards adopted pursuant to this section.

(2) Appeals shall be made to the city administrator, who shall be ultimately responsible for final decisions of ADA requests for reasonable accommodation. All determinations of the appeal process made by the city administrator shall address and be based on the finding that the reasonable accommodation requested is necessary to afford one or more disabled persons equal opportunity to local government services, activities and programs, but does not place undue financial burden upon the city nor alter the fundamental nature of those services, activities and programs.

(j) *City administrator authorized.* The city administrator is authorized and directed to develop and maintain a comprehensive and cohesive policy consistent with the provisions of this section. The policy, along with any associated forms and procedures, shall be designated as the request for reasonable accommodation. Once adopted by the city council, a copy of the request for reasonable accommodation shall be kept on file by the city clerk. The city administrator is further authorized to make periodic updates or modifications to the adopted program, conditioned upon filing the updated or modified program with the city clerk for public comment, followed by a 60-day period to allow for public comment. After the 60-day comment period, the proposed updates or modifications together with any public comments shall be presented to city council for consideration and action by resolution of the city council.

(k) *Fees.* The city shall not impose any additional fees or costs in connection with a request for reasonable accommodation under the provisions of this section or an appeal of a denial of such request by the city administrator. Nothing in this article obligates the city to pay attorney fees or costs of the person requesting reasonable accommodation.

(l) *Stay of enforcement.* While a request for reasonable accommodation or an appeal of a denial of said application is pending before the city, the city will not enforce corrective action in relation to a specific request for reasonable accommodation made by an employee or person requesting accommodation. The ADA does not override the responsibility of the city to prevent an issue of public safety when a requested accommodation may be seen as a public safety threat.

(m) *Recordkeeping.* All concerns or grievances received by the ADA Coordinator or designee, appeals to the city administrator or designee, and responses from these two offices will be retained by the City of Nixa for three years for citizen requests and seven years for applicant and employee requests or as deemed applicable.

(Ord. No. 2100, § I, 1-27-2020)

Chapters 27—100

RESERVED

Subpart B

LAND DEVELOPMENT ORDINANCES*

Chapter 101

GENERAL AND ADMINISTRATIVE PROVISIONS

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- Sec. 101-2. Definitions.
- Sec. 101-3. Applicability of chapter 1.
- Sec. 101-4. Status.
- Sec. 101-5. Authority.
- Sec. 101-6. Jurisdiction.
- Sec. 101-7. Relationship to existing zoning and subdivision regulations.
- Sec. 101-8. Relationship to the comprehensive plan.
- Sec. 101-9. No use or sale of land or buildings except in conformity with subpart provisions.
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- Sec. 101-12. Subdivision drainage review fees.
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- Secs. 101-14—101-44. Reserved.

Article II. Administrative Agencies

Division 1. Generally

- Sec. 101-45. City council.
- Sec. 101-46. City planner.
- Secs. 101-47—101-65. Reserved.

Division 2. Planning and Zoning Commission

- Sec. 101-66. Name and authority.
- Sec. 101-67. Powers and duties.
- Sec. 101-68. Adoption of bylaws; review and amendment.
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- Sec. 101-70. Officers.
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- Sec. 101-72. Meetings.
- Sec. 101-73. Quorum and voting.
- Sec. 101-74. Conduct of meetings.
- Sec. 101-75. Public right to address commission.
- Secs. 101-76—101-93. Reserved.

***State law reference**—Planning and zoning, RSMo ch. 89.

NIXA CITY CODE

Division 3. Board of Adjustment

- Sec. 101-94. Appointment and terms of the board.
- Sec. 101-95. Meetings.
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Article III. Permits and Preliminary Plat Approval

- Sec. 101-127. Permits required.
- Sec. 101-128. No occupancy, use, or sale of lots until requirements fulfilled.
- Sec. 101-129. Who may submit permit applications.
- Sec. 101-130. Applications to be complete.
- Sec. 101-131. Staff consultation before formal application.
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- Sec. 101-133. Approved use permits.
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- Sec. 101-135. Application for special-use permits and preliminary plat approvals.
- Sec. 101-136. Special-use permits; conditions for approval.
- Sec. 101-137. Burden of presenting evidence; burden of persuasion.
- Sec. 101-138. Recommendations on special-use permit applications.
- Sec. 101-139. Recommendations on preliminary plat approval applications.
- Sec. 101-140. City council action on preliminary plat approvals.
- Sec. 101-141. City council action on special-use permits.
- Sec. 101-142. Additional requirements on special-use permit applications.
- Sec. 101-143. Additional requirements on special-use and preliminary plat approvals.
- Sec. 101-144. Authorizing use, occupancy, or sale before completion of development under special-use or preliminary plat approvals.
- Sec. 101-145. Completing developments in phases.
- Sec. 101-146. Expiration of permits.
- Sec. 101-147. Effect of permit on successors and assigns.
- Sec. 101-148. Amendments to and modifications of permits.
- Sec. 101-149. Reconsideration of city council or board of adjustment action.
- Sec. 101-150. Applications to be processed expeditiously.
- Sec. 101-151. Maintenance of common areas, improvements, and facilities.
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- Secs. 101-153—101-172. Reserved.

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- Sec. 101-173. Appeals.
- Sec. 101-174. Variances.
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GENERAL AND ADMINISTRATIVE PROVISIONS

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Article VI. Enforcement and Review

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- Sec. 101-237. Procedures upon discovery of violations.
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- Sec. 101-259. Definitions.
- Sec. 101-260. Continuation of nonconforming situations and completion of nonconforming projects.
- Sec. 101-261. Nonconforming lots.
- Sec. 101-262. Extension or enlargement of nonconforming situations.
- Sec. 101-263. Repair, maintenance and reconstruction.
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- Sec. 101-265. Abandonment and discontinuance of nonconforming situations.
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- Secs. 101-267—101-295. Reserved.

Article VIII. Amendments

- Sec. 101-296. Amendments in general.
- Sec. 101-297. Initiation of amendments.
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- Sec. 101-300. Ultimate issue before city council on amendments.
- Sec. 101-301. Protests to zoning district changes.

ARTICLE I. IN GENERAL**Sec. 101-1. Short title.**

This subpart shall be known and may be cited as the "City of Nixa Land Development Ordinances."

(Prior Code, § 23-1)

Sec. 101-2. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this subpart. Additional definitions may be found in the nonconforming situations, signs, and landscape chapters.

Accessory apartment means a separate complete dwelling unit substantially contained within the structure of a single-family detached dwelling.

Accessory structure means a structure which:

- (1) Is subordinate to and serves a principal structure;
- (2) Is subordinate in area, extent, or purpose to the principal structure;
- (3) Contributes to the comfort, convenience, or necessity of occupants of the principal use;
- (4) Is located on the same lot as the principal structure; and
- (5) Meets the density and dimensional requirements.

Accessory use means a structure which:

- (1) Is subordinate to and serves a principal use;
- (2) Is subordinate in area, extent, or purpose to the principal use;
- (3) Contributes to the comfort, convenience, or necessity of occupants of the principal use;
- (4) Is located on the same lot as the principal use; and
- (5) Meets the setback requirements.

Acre means a measure of land containing 43,560 square feet.

Administrator means the city administrator in all cases involving this subpart or the person designated by him.

Agricultural use means the production, keeping or maintenance, sale, lease or personal use of plants and animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats, or any mutations, hybrids or emus thereof, including the breeding and grazing of any or all kinds of such

animals; bees and apiary products; fur animals; trees for forest products; fruits of all kinds, including grapes, nuts, berries; vegetables; nursery, floral, ornamental, and greenhouse products; or land devoted to a soil conservation or forestry management by excluding: feed lots, stockyards, and animal slaughterhouses.

Alley means a public way which extends only for secondary means of access to abutting property.

Alteration means a physical change to one or more of the exterior architectural features of a structure which includes, but is not limited to the erection, construction, reconstruction, or removal of any feature of the structure.

Alteration, structural, means any change in a supporting member of a building.

Animal, household, or pets, means any animal normally and customarily kept by domestic households for pleasure and companionship, excluding poultry, pheasants, cows, potbellied pigs, livestock, chinchillas, horses, goats, sheep, monkeys, cougars, mountain lions and other similar animals and fowl.

Approved use permit means a permit issued by the city planner or the planning and zoning commission that authorizes the recipient to make use of property in accordance with the requirements of this subpart.

Basement means the enclosed part of a building having at least two feet of its height below the average grade of the adjoining ground.

Bed and breakfast means a dwelling, or portion thereof, that is located in a residential district and contains guestrooms where short-term lodging, with or without meals, is provided for compensation.

Berm means a mound of earth, typically located in a buffer yard to shield or block noise, lights or other nuisances.

Boardinghouse means an establishment or part thereof, where lodging and meals are provided by the owner or operator for compensation to no less than three and no more than 20 persons, whether the compensation is paid directly or indirectly.

Buffer yard means a land area typically containing trees, shrubs, and other plants, berms, fences, or walls used to separate one use from another, or to block noise, lights, or other nuisances.

Buildable area means the area remaining on a lot after the minimum open space and yard requirements of this subpart are met.

Building means a structure, of more or less permanent construction, having a roof and intended to be used for the shelter or enclosure of persons or property.

Building codes means the building codes of the city, together with the electrical code, plumbing code, fire code, and any related code(s) adopted by the city council, and any regulations adopted in conformance therewith.

Building coverage means the horizontal area measured within the exterior walls of the ground floor of all principal and accessory buildings on a lot divided by the gross area of the lot.

Building materials means the physical characteristics which create the aesthetic and structural appearance of the resource, including but not limited to a consideration of the texture and style of the components and their combinations, such as brick, stone, shingle, wood, concrete, or stucco.

Building, principal, means a building in which the primary use of the lot on which the building is located is conducted.

Bulk storage means the storage of chemicals, petroleum products, and other materials in aboveground containers for subsequent resale to distributors or retail dealers or outlets.

Central business district means the commercial, office, and industrial area of the city, generally located at the intersection of Highway 160 and Highway 14.

Child day care means the care of a child away from his or her home on either a commercial or noncommercial basis for custodial, educational, religious, or other purposes for any part of a 24-hour day.

Child day-care center is a child care program where care is provided for children not related to the child care provider for any part of the 24-hour day, whether known or incorporated under another name, conducted in a location other than the provider's permanent residence, or separate from the provider's living quarters, and licensed by the state of Missouri.

Church means a building or structure, or groups of buildings or structures other than a permanent residence used for public religious worship and associated religious functions (education, fellowship, etc.), intended for the conduct of organized religious services and accessory uses associated therewith including synagogues and temples.

Circulation area means that portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Clinic means an establishment where patients are admitted for examination and/or treatment of human patients by one or more physicians, dentists, psychologists, or social workers and where patients are not lodged overnight.

Clubhouse means a structure accessory to a public or private noncommercial recreation area or facility and providing services to the patrons of such area of facility.

Cluster means a development pattern that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Combination use means a use consisting of a combination on one lot of two or more principal uses separately. In addition, when two or more separately owned or separately

operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use. This is not a formal classification.

Commercial means relating to the sale of goods or services.

Commercial vehicle means any vehicle designed, maintained, or used primarily for the transportation of property of persons for hire.

Commission means the city planning and zoning commission.

Community center means a place, structure, area, or other facility for social, educational, and recreational activities of a neighborhood or community subdivision, provided any such use is not operated for commercial gain.

Comprehensive marijuana cultivation facility means a facility licensed by the State as a comprehensive marijuana cultivation facility and which acquires, cultivates, processes, packages, stores on site or off site, transports to or from, and sells marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive marijuana facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

Comprehensive marijuana dispensary facility means a facility licensed by the state as a comprehensive marijuana dispensary facility and which acquires, processes, packages, stores on site or off site, sell, transports to or from, and delivers marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in Article XIV of the Missouri Constitution to a qualifying patient or primary caregiver, as those terms are defined in said Article, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of Article XIV of the Missouri Constitution, and as otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale, as provided for by general or local law. A comprehensive marijuana dispensary facilities authority to process marijuana shall include the creation of prerolls.

Comprehensive marijuana-infused products manufacturing facility means a facility licensed by the state as a comprehensive marijuana-infused products manufacturing facility and which acquires, processes, packages, stores, manufactures, transports to or from a medical facility, comprehensive facility, or marijuana testing facility, and sells marijuana-

infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

Comprehensive plan means the long-range or master plan of the city, and its associated elements, adopted by the planning and zoning commission and city council, containing analysis, recommendations, and policies for the community's population, economy, housing, transportation, environmental features, community facilities, and land use.

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.

Curb grade means the elevation of the top of the established curb in front of the building measured at the center of the building front. Where no curb grade has been established, the city engineer shall establish such curb grade or its equivalent for the purpose of this subpart.

Day care center means any child care arrangement that provides day care on a regular basis for more than two hours per day for more than four children of preschool age.

Day care home means a dwelling, occupied as a permanent residence by the child day care provided, in which care is given to no more than ten children not related to the day care provider for any part of a 24-hour day.

Density means the number of dwelling units per unit of land.

Developer means a person who is responsible for any undertaking that requires an approved use permit, special-use permit, conditional-use permit or sign permit.

Development means that which is to be done pursuant to a zoning permit, special-use permit, preliminary plat approval, or sign permit and can be one or more businesses or a subdivision.

Dimensional nonconformity means a nonconforming situation that occurs when the height, size or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

District means a part, zone, or geographic area within the city, within which certain zoning regulations apply and are in uniform.

Duplex means a structure on a single lot containing two dwelling units, each of which is totally separated from the other.

Dwelling means a building or portion thereof designed exclusively for residential occupancy, excluding means hotels, motels, boarding, rooming, and lodging houses.

Family means one or more persons living and cooking together as a single housekeeping unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain more than five unrelated persons.

Family day care home means a day care home providing day care to no more than eight children at any one time.

Fitness center means athletic facilities, which are primarily indoors, including but not limited to gyms, health and exercise clubs, and martial arts centers.

Floor area ratio (FAR) means the gross floor area of all buildings on a lot divided by the lot area.

Frontage means that part of a lot or premises immediately adjacent to a street or streets without regard to access to, or elevation of, the street or streets.

Funeral home means a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, but shall not include facilities for cremation.

General public means any and all individuals without any prior qualifications.

Grade means the average level of the finished surface of the ground for buildings more than five feet from a street line. For buildings closer than five feet to a street line, the grade is the sidewalk elevation at the center of the building. If there is no more than one street, an average sidewalk elevation is to be used. If there is no sidewalk, the city engineer shall establish the sidewalk grade.

Gross floor area means the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Group day care home means a day care home providing for day care for not more than ten children nor less than seven children at any one time.

Group home, custodial, means a dwelling in which unrelated mentally retarded, physically handicapped, or otherwise physically or mentally impaired persons reside with house parents or guardians.

Group home, residential, means a single-family detached dwelling in which no more than ten people reside, comprised of the following: eight or fewer unrelated mentally retarded or physically handicapped persons, no more than two persons acting as house parents or guardians who need not be related to each other or to any of the mentally retarded or physically handicapped persons, residing in the dwelling, and the children of the house parents or guardians.

Height^b means the vertical distance from the average established grade at lot line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

High-volume traffic generation means all uses in the commercial zoning districts in the table of approved uses other than low-volume traffic generation uses.

Home occupation means an activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

Hotel means a facility offering transient lodging accommodations on a daily rate to the general public.

Impervious surface means any part of a lot that is covered by buildings, structures, parking areas, driveways, and any other surfaces which reduce or prevent absorption of stormwater.

Institution means a nonprofit establishment for public use.

Jail means a facility for the incarceration of criminals.

Kennel means an establishment licensed to operate a facility housing four or more dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Loading space means an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lodging house means an establishment or part thereof, where lodging is provided by the owner or operator for compensation to no less than three and no more than 20 persons, whether the compensation is paid directly or indirectly.

Lot means a parcel of land occupied or intended to be separately owned, developed, and otherwise used as a unit within the requirements of this subpart and the requirements of the subdivision regulations of the city.

Lot area means the total horizontal area within the lot lines of a lot.

Lot, corner, means a lot situated at the intersection of two or more streets.

Lot depth means the horizontal distance between the front and rear lot lines measured along the median between the two side lot lines.

Lot, double frontage, means a lot having a frontage on two nonintersecting streets as distinguished from a corner lot.

Lot, front of, means the front of a lot shall be considered to be that side of the lot which fronts a street. In the case of a corner lot, the narrowest side fronting on the street shall be considered to front on that street which the greatest number of lots front.

Lot, interior, means a lot other than a corner lot.

Lot line means a boundary line of a lot.

Lot line, front, means the lot line separating a lot from the street. On a corner lot, the shortest lot line abutting a street is the front lot line; on a through lot, both lot lines abutting the streets are front lot lines; on a flag shaped lot, the front lot line is also the lot line most parallel to the abutting the street.

Lot line, rear, means any lot line not a front or side lot line. The rear lot line for a triangular shaped lot shall be a line ten feet long drawn between the lot's side lot lines and parallel to the front lot line.

Lot line, side, means the lot lines that intersect with a lot's front lot line.

Lot of record means a lot which is part of a recorded subdivision or a parcel of land on a plat or deed which has been recorded by the county recorder of deeds.

Lot, reversed corner, means a corner lot whose side street line is substantially a continuation of the front lot line of the lot to its rear.

Lot, through, means a lot having a frontage on two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot width means the mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear lot line of the required front yard (building line; especially on irregularly shaped lots).

Low-volume traffic generation means uses such as furniture stores, carpet stores, major appliance stores, etc., that sell items that are large and bulky, that need a relatively large amount of storage or display for each unit offered for sale, and that therefore generate less customer traffic per square foot of space than stores selling smaller items.

Marijuana or *Marihuana* means Cannabis indica, Cannabis sativa, and/or Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the marijuana plant and marijuana-infused products. "Marijuana" or "marihuana" does not include industrial hemp, as defined by state statute, 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.

Marijuana medical facility means any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility.

Marijuana testing facility means a facility certified by the state to acquire, test, certify, and transport marijuana, including those originally certified as a medical marijuana testing facility.

Marijuana use means a marijuana medical facility and a marijuana facility.

Medical marijuana cultivation facility means a facility licensed by the state as a medical marijuana cultivation facility and which acquires, cultivates, processes, packages, stores on site or off site, transports to or from, and sells marijuana, marijuana seeds, and marijuana vegetative cuttings (also known as clones) to a medical marijuana dispensary facility,

medical marijuana testing facility, medical marijuana cultivation facility, or to a medical marijuana-infused products manufacturing facility. A medical marijuana cultivation facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

Medical marijuana dispensary facility means a facility licensed by the state as a medical marijuana dispensary facility and which acquires, processes, packages, stores on site or off site, sells, transports to or from, and delivers marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in Article XIV of the Missouri Constitution to a qualifying patient, a primary caregiver, anywhere on the licensed property or to any address as directed by the patient or primary caregiver, so long as the address is a location allowing for the legal possession of marijuana, another medical marijuana dispensary facility, a marijuana testing facility, a medical marijuana cultivation facility, or a medical marijuana-infused products manufacturing facility. Dispensary facilities may receive transaction orders at the dispensary in person, by phone, or via the internet, including from a third party. A medical marijuana dispensary facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

Medical marijuana-infused products manufacturing facility means a facility licensed by the state as a medical marijuana-infused products manufacturing facility and which acquires, processes, packages, stores on site or off site, manufactures, transports to or from, and sells marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

Microbusiness dispensary facility means a facility licensed by the state as a microbusiness dispensary facility and which acquires, processes, packages, stores on site or off site, sells, transports to or from, and delivers marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in Article XIV of the Missouri Constitution a consumer, qualifying patient, as that term is defined in Article XIV, Section 1, of the Missouri Constitution, or primary caregiver, as that term is defined in Article XIV, Section 1, of the Missouri Constitution, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of Article XIV of the Missouri Constitution and is otherwise allowed by law, a microbusiness wholesale facility, or a marijuana testing facility. Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet including from a third party. A microbusiness dispensary facilities authority to process marijuana shall include the creation of prerolls.

Microbusiness wholesale facility means a facility licensed by the state as a microbusiness wholesale facility and which acquires, cultivates, processes, packages, stores on site or off site, manufactures, transports to or from, delivers, and sells marijuana, marijuana seeds,

marijuana vegetative cuttings (also known as clones), and marijuana infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or marijuana testing facility. A micro business wholesale facility may cultivate up to 250 flowering marijuana plants at any given time period a microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and infused prerolls.

Mobile home (manufactured housing) means a home designed for year-round residential use which is:

- (1) Composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis; and
- (2) Built after the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 6, 1976.

Mobile home park means an area where one or more mobile homes can be intended to be parked, designed, or intended to be used as living facilities for one or more families.

Motel means an establishment in which transient accommodations are provided on a daily rate to the general public.

Nonconforming lot means a lot existing at the effective date of the ordinance from which this subpart is derived (and not created for the purposes of evading the restrictions of this subpart) that does not meet the minimum area requirement of the district in which the lot is located.

Nonconforming project means any structure, development, or undertaking that is incomplete at the effective date of the ordinance from which this subpart is derived and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming situation means a situation that occurs when, on the effective date of the ordinance from which this subpart is derived, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this subpart, or because land or buildings are used for purposes made unlawful by this subpart. Nonconforming signs shall not be regarded as nonconforming situations for purposes of article VII but shall be governed by the provisions of section 113-5.

Nonconforming use means a use of land which does not conform with the use regulations for its zoning district.

Office/retail/warehouse combination means a facility that provides combined office, retail and warehouse facilities for one or more small establishments.

Open space means any unoccupied space on a lot that is unobstructed to the sky except for the ordinary projection of cornices or eaves. Open space shall not include areas covered by structures, parking areas, driveways, internal streets, and other forms of impervious surfaces, and shall contain lining ground cover or other landscaping materials.

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

Parking space means a portion of the vehicle accommodation area set aside for the parking of one vehicle.

Paving means brick, stone, concrete, asphalt, or other impervious dustless material placed on the surface of the land.

Pervious surface means any material that allows the absorption of storm water.

Pick-up facility means a facility typically accessory to a commercial establishment designed solely for the distribution of goods to the customer which have been ordered before arriving at the establishment.

Planning jurisdiction means the area within the city limits that the city is authorized to plan for and regulate development, as set forth in section 101-6.

Preliminary plat approval means a permit issued by the city council that authorizes the recipient to make use of property in accordance with the requirements of this subpart as well as any additional requirements imposed by the city council.

Premises means any tract of land consisting of one or more lots, under single or multiple ownership, which operates as a functional unit. When developed, a premises shall also possess one or more of the following criteria:

- (1) Shared parking;
- (2) Common management;
- (3) Common identification;
- (4) Common access; or
- (5) Shared circulation.

Principal structure means a structure, or group of structures, in which the principal use of the lot on which it is located is conducted.

Protection means the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or vandalism, or to cover or shield the property from danger. In the case of structures, such treatment is generally temporary and anticipates future treatment; in the case of archaeological sites, the measure may be temporary or permanent.

Public means maintained for or used by the people of the city on a noncommercial basis.

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, or other portions of the public infrastructure.

Recycling center means a facility where recyclable material is collected, separated, and processed prior to shipment to other facilities who will use this material to manufacture new products.

Residence, duplex, means a two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, multifamily, means the residential use of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

Residence, multifamily apartments, means a multifamily residential use other than a multifamily conversion or multifamily townhouse.

Residence, multifamily conversion, means a multifamily residence containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of the ordinance from which this provision is derived and that was originally designed, constructed and occupied as a single-family residence.

Residence, multifamily townhouses, means an attached residential use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least two other dwelling units and in which each dwelling unit has a living space on the ground floor and a separate, ground floor entrance.

Residence, primary with accessory apartment, means a residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25 percent of the gross floor area of the building but not more than 750 total square feet.

Residence, single-family detached, more than one dwelling per lot, means a residential use consisting of two or more single-family detached dwelling units on a single lot.

Residence, single-family detached, one dwelling unit per lot, means a residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

Residence, two-family, means a residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

Residence, two-family conversion, means a two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of the ordinance from which this provision is derived and that was originally designed, constructed and occupied as a single-family residence.

Retail trade means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Scale means the harmonious proportion of parts of a building or structure to one another and to the human figure.

School means a school which provides elementary or secondary education and is accredited by the laws of the state of Missouri.

Setback means the required minimum horizontal distance between the nearest front, side, or rear line of every structure and the line of the lot.

Solid screening means a device or materials used to conceal one element of a development from other elements or from adjacent or contiguous development. Screening may include one or a combination of the following materials of sufficient mass to be opaque or that shall become opaque after 12 months and which shall be maintained in an opaque condition: solid fences, walls, berms, plantings, or other features. A chain-link fence with plastic or wooden inserts shall not be considered solid screening.

Special-use permit means a permit issued by the city council that authorizes the recipient to make use of property in accordance with the requirements of this subpart as well as any additional requirements imposed by the city council.

Stabilization means the act or process of applying measures to halt deterioration and to establish the structure stability of an unsafe or deteriorated structure while maintaining the essential form it presently exists without noticeably changing its exterior appearance.

Storage, personal, means a building or group of buildings, commonly referred to as mini-storage, consisting of individual, small, self-contained units that are available on a rental basis for the storage of business and household goods or contractors' supplies.

Story means that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half story containing independent apartments or living quarters shall be counted as a full story.

Street means a public or private way, used or intended to be used for passage or travel by motor vehicles. Streets are further classified by the functions they perform as follows:

- (1) Alley;

- (2) Local;
- (3) Collector;
- (4) Secondary arterial;
- (5) Primary arterial; and
- (6) Expressway.

Street, collector, means a street which collects and distributes traffic between arterial street and local streets and is primarily intended to provide for low-to-moderate volume, low-speed, and short length trips while also providing access to abutting properties.

Street, collector-local, means a street which collects and distributes residential traffic between local streets and collector and arterial streets and is primarily intended for low-to-moderate volume, low-speed, and short length trips while also providing access to abutting properties.

Street, commercial/industrial local, means a street for low-volumes, low speeds, and short-length trips to and from abutting properties in commercial and industrial areas.

Street, expressway, means a street primarily intended to provide partial access control and high priority for traffic flow with at-grade signalized intersections for major streets. Such expressway streets are intended for high-volume, moderate-to-high speed traffic movement across the metropolitan area with minimal access to adjacent land. Such expressway streets may be designed as a highway with separation for adjacent land uses or as a street with controlled access to adjacent land uses. Service access should be provided from lower order streets.

Street grade means the highest altitude of the street vertically under any portion of the sign or its supports.

Street, highway access, means a minor street parallel and adjacent to a freeway, expressway, or arterial which provides access to abutting properties and protection from through traffic.

Street line means a dividing line between a lot and a contiguous street.

Street, local, means a street primarily providing direct access to abutting properties and designed to accommodate low volume, low-speed traffic.

Street, primary arterial, means a street primarily intended to provide for high-to-moderate volume, moderate-speed traffic movement between major activity centers. Access to abutting property is subordinate to traffic flow and is subject to the necessary control of entrances and exits.

Street, residential local, means a street for low-volumes, low-speeds, and short-length trips to and from abutting properties in residential neighborhoods.

Street, secondary arterial, means a street which augments and feeds the primary arterial system and is intended for moderate-volume, moderate-speed traffic movement. Access to abutting property is partially controlled.

Street width means the horizontal distance between the outside edges of a street's pavement, including any curbing and guttering, measured at right angles to the street's centerline.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground.

Subdivision means a subdivision of land shall be deemed to be the division of any parcel or tract into two or more parcels, sites or lots, any one of which contains less than five acres for the purpose, whether immediate or future, of transfer of ownership or development; provided, however, that the following shall not constitute a subdivision: the sale or exchange of parcels of and between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the size required by law.

Subdivision, architecturally integrated, means a subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, height, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in chapter 117, article VI.

Subdivision, major, means any subdivision other than a minor subdivision.

Subdivision, minor, means a subdivision that does not involve any of the following:

- (1) The creation of more than a total of four lots;
- (2) The creation of any new public streets;
- (3) The extension of a public water or sewer system; or
- (4) The installation of drainage improvements through one or more lots to serve one or more other lots.

Taking means to take, expropriate, acquire, or seize property without compensation (payment made to a private property owner by an agency with the power of eminent domain when the private property is taken for public use).

Temporary portable storage container means any container exclusively for temporary, on-site storage of personal property that is typically rented to owners or occupants of property that is delivered and removed by a truck.

Temporary/promotional/special event use means an activity which may commonly be described as a seasonal, special event or temporary use to an existing and legally conforming business use or uses and for the purposes of sales and/or raising funds for community service organizations or for the purpose of promoting any special event, any community educational campaign, any membership drive, or any other similar promotion and which activity is

established for a fixed period of time with the intent to discontinue such activity upon the expiration of the time period. Special events include any community observed holiday or national holiday.

Tower means any structure whose primary function is to support an antenna.

Tract means a lot. The term "tract" is used interchangeably with the term "lot", particularly in the context of subdivisions, where one tract is subdivided into several lots.

Undeveloped land means land in its natural state before development.

Use means the activity or function that actually takes place or is intended to take place on a lot.

Utility distribution facilities means utility facilities that provide retail utility services to customers. These facilities include distribution lines that route electrical, gas, telephone, water, sewer, cable TV, and similar services throughout the city and connect or provide the capability to connect with each customer. Distribution facilities consist of wires, cables, conduits, laterals, mains, and pipes with limited capacity and diameter, and associated hardware: poles, vaults, transformers, relays, and similar equipment.

Utility substation facilities means utility facilities that reduce the strength, amount, volume, or configuration of utility flow from a bulk quantity in large-size, long-distance transmission facilities to small quantities in distribution facilities. Substation facilities include electrical substations, gas regulator stations, telephone switching and relay facilities, water and sewage pumps, and lift stations.

Utility transmission facilities means utility facilities that transfer large utility flows between generating or treatment facilities and substation facilities. Transmission facilities consist of wires, cables, conduits, vaults, laterals, pipes, mains, valves, poles, and similar equipment to convey large volumes of electricity, communications, gas, water, sewer or slurry. Transmission facilities may serve local distribution facilities or be part of an intrastate or interstate utility system.

Variance means a grant of permission by the city council that authorizes the recipient to do that which, according to the strict letter of this subpart, he could not otherwise legally do.

Vehicle accommodation area means that portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

Wholesale trade means establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to such individuals or companies.

Working days means the days of the week, excluding Saturdays, Sundays, and recognized holidays, during which normal business is conducted by the city.

Yard means an open space located on the same lot as and that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as otherwise provided herein.

Yard, front, means an open space extending the full width of the lot on which a building is located through and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, rear, means an open space extending the full width of the lot on which a building is located through and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, side, means an open space on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of the building, and extending from the front yard to the rear.

Zero lot line means the location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

(Prior Code, § 23-17; Ord. No. 1574, 2-2009; Ord. No. 2061, § III, 6-24-2019; Ord. No. 2299, § 1, 3-8-2023)

Sec. 101-3. Applicability of chapter 1.

The provisions of chapter 1 of this Code apply to this subpart.

Sec. 101-4. Status.

While this subpart is a codification of the ordinances pertaining to land development regulations, provisions in subpart A of this Code may also pertain to land development. The failure to include provisions in this subpart does not excuse failure to comply with such provisions. Inclusion of provisions in this subpart that do not pertain to land development does not excuse failure to comply with such provisions.

Sec. 101-5. Authority.

- (a) This subpart is adopted pursuant to the authority contained in RSMo ch. 89.
- (b) Whenever any provision of this subpart refers to or cites a section of RSMo ch. 89 and that section is later amended or superseded, the subpart shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(Prior Code, § 23-2)

Sec. 101-6. Jurisdiction.

- (a) This subpart shall be effective throughout the city's planning jurisdiction. The city's planning jurisdiction comprises the area within the corporate boundaries of the city.

(b) In addition to other locations required by law, a copy of a map showing the boundaries of the city's planning jurisdiction shall be available for public inspection in the development department.

(Prior Code, § 23-3)

Sec. 101-7. Relationship to existing zoning and subdivision regulations.

To the extent that the provisions of this subpart are the same in substance as the previously adopted provisions that they replace in the city's zoning and subdivision regulations, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this subpart merely by the repeal of the zoning ordinance.

(Prior Code, § 23-5)

Sec. 101-8. Relationship to the comprehensive plan.

It is the intention of the planning and zoning commission that this subpart implements the planning policies adopted by the city council for the city as reflected in the city of Ni comprehensive plan and other planning documents. While the city council reaffirms its commitment that this subpart and any amendments to it be in conformity with adopted planning policies, the city council hereby expresses its intent that neither this subpart nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

(Prior Code, § 23-6)

Sec. 101-9. No use or sale of land or buildings except in conformity with subpart provisions.

(a) Subject to article VII of this chapter (nonconforming situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this subpart.

(b) For purposes of this section, the term "use" or "occupancy" of a building or land relates to anything and everything that is done to, on or in that building or land.

(Prior Code, § 23-7)

Sec. 101-10. Responsibility.

Any user of this subpart understands and agrees as to having read the contents before submitting an application for any permit or plans for any development. It is the responsibility of all applicants to meet the requirements of this subpart. Failure to meet the requirements is one reason for denial of an application.

(Prior Code, § 23-8)

Sec. 101-11. Fees.

Fees sufficient to cover the costs of administration of the provisions of this subpart, the inspection of buildings or structures for compliance with the provisions of this subpart, publication of notices as required by the provisions of this subpart shall be charged to applicants for approved use permits, sign permits, preliminary plat approval, special-use permits, subdivision plat approval, zoning amendments, variances, and any other review of an application or approval required by this subpart. Said fees shall be in such amounts as established in section 2-151 of this Code.

(Prior Code, § 23-11; Ord. No. 1488, 7-2007; Ord. No. 1510, 12-2007; Ord. No. 1548, 9-2008; Ord. No. 1631, 12-2009; Ord. No. 1676, 12-13-2010; Ord. No. 2331, § 21, 10-23-2023)

Sec. 101-12. Subdivision drainage review fees.

All fees related to an independent engineering review prior to issuance of a construction permit are the responsibility of the applicant/developer.

(Prior Code, § 23-12)

Sec. 101-13. Commercial and multifamily building plan drainage review fees.

All fees related to an independent engineering review prior to issuance of a construction permit are the responsibility of the applicant/developer.

(Prior Code, § 23-13)

Secs. 101-14—101-44. Reserved.**ARTICLE II. ADMINISTRATIVE AGENCIES****DIVISION 1. GENERALLY****Sec. 101-45. City council.**

(a) The city council, in considering preliminary plat approval and special-use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in articles II, III, and IV of this chapter.

(b) In considering proposed changes in the text of this subpart or in the zoning map, the city council acts in its legislative capacity and must proceed in accordance with the requirements of article VII of this chapter.

(c) Unless otherwise specifically provided in this subpart, in acting upon preliminary plat approval requests, in considering amendments to this subpart or the zoning map, or special-use permits, the city council shall follow the regular, voting, and other requirements as set forth in other provisions of this Code or general law.

(Prior Code, § 23-55)

Sec. 101-46. City planner.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this subpart may be assigned by the city administrator to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this subpart as the "city planner." The term "staff" or "planning staff" is sometimes used interchangeably with the term "city planner."

(Prior Code, § 23-51)

Secs. 101-47—101-65. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION*

Sec. 101-66. Name and authority.

The name of this organization shall be known as the "city planning and zoning commission," herein called the "commission." The commission shall establish bylaws for its governance and for the transaction of its business. Where there is a conflict between the provisions of the bylaws and the provisions of this Code, the provisions of this Code shall govern.

(Prior Code, § 23-26)

Sec. 101-67. Powers and duties.

The commission shall:

- (1) Prepare plans for the city, which are directed towards the best development of the city;
- (2) Hold public hearings as provided by law;
- (3) Make and recommend policy to the city council in areas of physical and social development;
- (4) Evaluate and recommend necessary rules and regulations as provided by law;
- (5) Hear and make final judgment on applications for minor subdivisions;

***State law reference**—Planning and zoning commission, RSMo 89.070, 89.310 et seq.

- (6) Hear and make recommendations to the city council on applications for land development code amendments, general conditions and technical specification amendments or addendums to the comprehensive plan.

(Prior Code, § 23-27)

Sec. 101-68. Adoption of bylaws; review and amendment.

(a) Adoption and amendment. The bylaws shall be adopted by resolution by an affirmative vote of the majority of members of the commission appointed as voting members, and shall be placed on file with the city clerk. A copy of the bylaws shall be forwarded to the city council for its information. Any amendments to the bylaws shall be adopted by resolution in the same manner as the original bylaws.

(b) Annual review. The bylaws shall be reviewed on an annual basis at the first regular meeting of the commission in January of each year.

(c) These bylaws may be amended by a two-thirds vote of the members serving on the commission, but any such amendment shall only be voted upon after a motion made and duly seconded has been laid on the table for a period of 30 days.

(Prior Code, § 23-28)

Sec. 101-69. Membership and vacancies.

(a) The commission shall consist of seven citizens of the city at large to be known as citizen members. Citizen members of the commission shall be appointed by the mayor with the approval of the city council, for a term of four years and until their successors are appointed and qualified. The citizen members shall be appointed in November of each year for four-year terms. Any vacancy in the citizen membership shall be made by appointment, as aforesaid, at the time such vacancy occurs, for the duration of the unexpired term. No person shall be sworn into office who shall at the time be in arrears for any unpaid city taxes or municipal users' fee.

(b) Vacancies on the planning and zoning commission shall be filled in accordance with subsection (a) of this section.

(Prior Code, § 23-29; Ord. No. 2326, § 1, 8-28-2023)

Sec. 101-70. Officers.

(a) Annually, at its first meeting in January, the commission shall elect from its citizen members a chairperson, vice-chairperson, and secretary, who shall be eligible for reelection, and shall adopt rules and regulations as it may deem necessary for the transaction of business.

(b) The chairperson shall preside over the meetings of the commission. The chair shall have the authority to redirect public comment unrelated to the commission's business to the most appropriate city department or the city council. The vice-chairperson shall assume the

duties of the chairperson, in the absence of the chairperson. In the event of the absence of both the chairperson and vice chairperson, those members present shall elect a temporary chairperson to preside over the meeting.

(Prior Code, § 23-30)

Sec. 101-71. Conduct of members.

(a) *Attendance.* Commission members shall advise the designated staff member or the commission chairperson of an anticipated absence from any regularly scheduled planning and zoning commission meeting. Any member attending less than nine regularly scheduled meetings per year without the consent of the commission shall be deemed to have vacated the office, and such vacancy shall be filled by the mayor pursuant to section 101-69(a).

(b) *Conflict of interest.*

- (1) *General standard.* No commissioner shall be appointed with private or personal interests likely to conflict with the general public interest. If any person appointed to the commission shall find that their private or personal interests are involved in any matter coming before the commission, they shall disqualify themselves from taking part in any discussion or action on the matter; alternatively, they may be disqualified by a two-thirds majority vote of the commissioners in attendance.
- (2) *Conflict due to economic interests.* A commissioner has a conflict of interest if he, in his discharge of official duties, would be required to take an action or make a decision that would substantially affect the commissioner's financial interests or those of an associated business, unless the effect on the commissioner is no greater than on other members of the commissioner's business classification, profession, or occupation. In the event a conflict of interest exists with respect to a particular matter before the commission, the commissioner shall disqualify himself from taking part in any discussion or action on the matter.

(c) *Ex parte contacts.* Ex parte contacts are contacts between individuals seeking to influence the decisions of the planning commission and individual commission members outside the meeting forum. Such contacts include meetings with project proponents, residents, property owners, and citizens separate from commission meetings; communication between commission members outside the meeting forum; or telephone calls or letters which attempt to influence a commissioner's opinion on a matter which will be subject to the commissioner's vote. The planning commissioners shall indicate to the person contacting them that such contact is inappropriate and all testimony needs to be offered at the hearing to ensure a fair hearing for all parties. Commissioners should discourage such contacts and should avoid expressing any opinion as to the merits of the case. When ex parte contact occurs, the planning commissioner is responsible for notifying the development department director and for conveying the substance of the communication at the next commission meeting at which the matter discussed is under consideration.

(Prior Code, § 23-31)

Sec. 101-72. Meetings.

(a) The commission's regular meetings will occur on the first Monday of each month at 7:00 p.m. The regularly scheduled meetings are for the purpose of convening public hearings, making recommendations to the city council, conducting business which requires vote of the commission, conducting long-range planning functions and other official business.

(b) From time to time, special meetings may be called in order to process significant caseloads, to review works in progress such as comprehensive plan updates or Municipal Code revisions, or to undertake a retreat or strategic planning session, either amongst itself or in the company of the city council. Special meetings can be proposed by any commission member or at the request of the development department director, yet must be approved by a majority vote of the commission.

(Prior Code, § 23-32)

Sec. 101-73. Quorum and voting.

A majority of the members shall constitute a quorum, and the sessions of the commission shall be public. The vote of a majority of the commissioners present at a meeting at which a quorum is present and voting will constitute the action of the commission, unless the vote of a larger number is required by the procedural rules in Robert's Rules of Order, Newly Revised (10th Edition).

(Prior Code, § 23-33)

Sec. 101-74. Conduct of meetings.

(a) *Procedures.* Meetings shall be conducted according to Robert's Rules of Order, Newly Revised (10th Edition), subject to any procedures to the contrary contained in these bylaws or the laws of the state.

(b) *Open meeting law.* Meetings shall be conducted in accordance with the State of Missouri Open Meeting Law.

(c) *Minutes.* Minutes shall be recorded for regular meetings and each commission member shall receive a copy of the unapproved minutes for review and approval at the succeeding meeting. Minutes shall be approved by motion. Approved minutes shall be the official record of the business conducted and actions taken by the commission. Commission members may request copies of approved minutes after they have been corrected, if necessary, and signed as approved. Copies of the approved minutes shall be filed with the city clerk.

(d) *Informational packets.* Each commissioner shall receive a staff report, plans and additional information, as appropriate, for each item placed on the agenda for any regular or special meeting. Each commissioner is responsible for reviewing the material within the packet prior to the meeting.

(Prior Code, § 23-34)

Sec. 101-75. Public right to address commission.

A person who wishes to address the commission at a meeting thereof shall do so according to the same rules, procedures, and limitations as established for addressing the city council. Any person who wishes to make their comments to the commission part of the record shall put those remarks in written form that truly identifies the author.

(Prior Code, § 23-26; Ord. No. 1602, 7-2009)

Secs. 101-76—101-93. Reserved.**DIVISION 3. BOARD OF ADJUSTMENT*****Sec. 101-94. Appointment and terms of the board.**

(a) A board of adjustment for the city shall consist of five members, all of whom shall be freeholders appointed by the mayor and approved by a majority of the city council. The term of office of the members of the board of adjustment shall be five years. Three alternate members may be appointed to serve in the absence of or the disqualification of the regular members.

(b) All members and alternates may be removed for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant.

(c) The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to RSMo 89.010 to 89.170.

(Prior Code, § 23-40)

Sec. 101-95. Meetings.

(a) The board of adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformance with section 101-150 (applications to be processed expeditiously). Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine.

(b) The board of adjustment shall conduct its meetings in accordance with the quasi-judicial procedures set forth in articles I, II, and III of this chapter.

(c) All meetings of the board of adjustment shall be open to the public, and whenever feasible, the agenda for each board meeting shall be made available in advance of the meeting.

(d) The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon question. If a member is absent or fails to vote, the minutes shall reflect such fact. The board of adjustment 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 testimony, objections thereto, and rulings thereon, shall be taken down by a reporter and plead by the board of adjustment for that purpose.

(Prior Code, § 23-41)

Sec. 101-96. Quorum.

(a) A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

***State law reference**—Board of adjustment, RSMo 89.080 et seq.

(b) A member who has withdrawn from the meeting without being excused as provided in section 101-69 shall be counted as present for purposes of determining whether a quorum is present.

(Prior Code, § 23-42)

Sec. 101-97. Voting.

(a) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance including to grant any variance. All other actions of the board of adjustment shall be taken by majority vote, a quorum being present.

(b) Once a member is physically present at a board of adjustment meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) of this section or has been allowed to withdraw from the meeting in accordance with subsection (d) of this section.

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

- (1) If the member has a direct financial interest in the outcome of the matter at issue;
- (2) If the matter at issue involves the member's own official conduct;
- (3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
- (4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(f) A roll call vote shall be taken upon the request of any member.

(Prior Code, § 23-43)

Sec. 101-98. Election of officers.

(a) At the first regular meeting, the board of adjustment shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chairperson and preside over the board meetings and one member to serve as vice-chairperson. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(b) The city clerk may administer oaths to witnesses coming before the board.

(c) The chairperson and vice-chairperson may take part in all deliberations and vote on all issues.

(Prior Code, § 23-44)

Sec. 101-99. Powers and duties.

(a) The board of adjustment shall hear and decide:

(1) Appeals from any order, decision, requirement, or interpretation made by the administrator, as provided in section 101-173.

(2) Applications for variances, as provided in section 101-174.

(3) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in section 101-175.

(4) Any other matter the board is required to act upon by any other city ordinance.

(b) The board of adjustment may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this subpart.

(Prior Code, § 23-45)

Secs. 101-100—101-126. Reserved.

ARTICLE III. PERMITS AND PRELIMINARY PLAT APPROVAL

Sec. 101-127. Permits required.

(a) Subject to section 113-3, the use made of property may not be substantially changed (see section 117-97), substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:

(1) An approved use permit issued by the city planner.

(2) A special-use permit issued by the city council.

(3) A preliminary plat approval issued by the city council.

(4) A sign permit issued by the city planner.

(b) Approved use permits, special-use permits, preliminary plat approvals and sign permits are issued under this subpart only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this subpart if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in section 101-147, all development shall occur strictly in accordance with such approved plans and applications.

(c) Physical improvements to land to be subdivided may not be commenced except in accordance with a preliminary plat approval issued by the city council for major subdivisions, or after final plat approval by the planning and zoning commission for minor subdivisions.

(d) An approved use permit, preliminary plat approval, special-use permit, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal); shall identify the property involved and the proposed use; shall incorporate by reference the plans submitted; and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one-acre (except sign permits and approved use permits for single-family and two-family residential uses) shall be recorded in the county registry after execution by the record owner as provided in section 101-146.

(Prior Code, § 23-60)

Sec. 101-128. No occupancy, use, or sale of lots until requirements fulfilled.

Issuance of a preliminary plat approval, special-use, or approved use permit authorizes the recipient to commence the activity resulting in a change in land use or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in sections 101-134, 101-144, and 101-145, the intended use may not be commenced; no building may be occupied; and in the case of subdivisions, no lots may be sold until all of the requirements of this subpart and all additional requirements imposed pursuant to the issuance of a preliminary plat approval or special-use permit have been in compliance.

(Prior Code, § 23-61)

Sec. 101-129. Who may submit permit applications.

(a) Applications for approved use, special-use, preliminary plat, or sign permits or minor subdivision plat approval will be accepted only from persons having legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this subpart, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendors).

(b) The city planner may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (a) of this section whenever there appears to be a reasonable basis for questioning this authority.

(Prior Code, § 23-62)

Sec. 101-130. Applications to be complete.

(a) All applications for approved use, special-use, preliminary plat, or sign permits must be complete before the permit-issuing authority is required to consider the application.

(b) Subject to subsection (c) of this section, an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this subpart.

(c) In this subpart, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in the technical specifications book. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with appendix A at the end of this article, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this subpart.

(d) However, whenever this subpart requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in appendix A at the end of this article, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the city planner.

(e) Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in article VI.

(f) The presumption established by this subpart is that all of the information set forth in appendix A at the end of this article is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the city council, the applicant may rely in the first instance on the recommendations of the city planner as to whether more or less information than that set forth in appendix A at the end of this article should be submitted.

(g) The city planner shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the city planner to determine compliance with this subpart, such as applications for approved use permits to construct single-family or two-family houses, or applications for sign permits, the city planner shall develop standard forms that will expedite the submission of the necessary plans and other required information.

(Prior Code, § 23-63)

Sec. 101-131. Staff consultation before formal application.

(a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this subpart, preapplication consultation between the developer and the planning staff is encouraged or required as provided in this section.

(b) Before submitting an application for a preliminary plat approval authorizing a development that consists of or contains a major subdivision, the developer shall submit to the city planner a sketch plan of such subdivision, drawn approximately to scale (one inch equals 100 feet). The sketch plan shall contain:

- (1) The name and address of the developer;
- (2) The proposed name and location of the subdivision;
- (3) The approximate total acreage of the proposed subdivision;
- (4) The tentative street and lot arrangement;
- (5) Topographic lines; and
- (6) Any other information which the developer believes necessary to obtain the informal opinion of the planning staff as to the proposed subdivision's compliance with the requirements of this subpart.

(c) The city planner shall meet with the developer as soon as conveniently possible to review the sketch plan.

(d) Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this subpart to the proposed development.

(Prior Code, § 23-64)

Sec. 101-132. Staff consultation after application submitted.

(a) Upon receipt of a formal application for an approved use permit, a special-use permit, or a preliminary plat approval, or minor plat approval, the city planner shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this subpart, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(b) If the application is for a special-use permit or preliminary plat approval, the city planner shall place the application on the agenda of the planning and zoning commission when the applicant indicates that the application is as complete as he intends to make it. However, as provided in sections 101-139 and 101-140, if the city planner believes that the application is incomplete, he shall recommend to the planning and zoning commission that the application be denied on that basis.

(Prior Code, § 23-65)

Sec. 101-133. Approved use permits.

(a) A completed application form for an approved use permit shall be submitted to the city planner by filing a copy of the application with the city planner in the development department.

(b) The city planner shall issue the approved use permit unless he finds, after reviewing the application and consulting with the applicant as provided in section 101-132, that:

- (1) The requested permit is not within his jurisdiction according to the table of approved uses;
- (2) The application is incomplete; or
- (3) If not completed as proposed in the application, the development will not comply with one or more requirements of this subpart (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in article VII, nonconforming situations).

(Prior Code, § 23-66)

Sec. 101-134. Authorizing use or occupancy before completion of development under approved use permit.

In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this subpart prior to commencing the intended use of the property or occupying any buildings, the city planner may authorize the commencement of the intended use of the occupancy of buildings (insofar as the requirements of this subpart are concerned) if the permit recipient provides a performance bond to ensure that all of the requirements of this subpart will be fulfilled within a reasonable period (not to exceed 12 months) determined by the city planner.

(Prior Code, § 23-67)

Sec. 101-135. Application for special-use permits and preliminary plat approvals.

(a) An application for a special-use permit shall be submitted to the city council with a recommendation from the planning and zoning commission by filing a copy of the application with the city planner in the development department.

(b) An application for a preliminary plat approval shall be submitted to the city council with a recommendation from the planning and zoning commission by filing a copy of the application with the city planner in the development department.

(c) Subject to subsection (d) of this section, the city council shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- (1) The requested permit is not within his jurisdiction according to the table of approved uses;
- (2) The application is incomplete; or
- (3) If not completed as proposed in the application, the development will not comply with one or more requirements of this subpart (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in article VII, nonconforming situations).

(d) Even if the city council finds that the application complies with all other provisions of this subpart, it may still deny the permit if it concludes, based upon information submitted at the hearing, that completed as proposed, the development, more probably than not:

- (1) Will endanger the public health and safety;
- (2) Will substantially injure the value of adjoining or abutting property;
- (3) Will not be in harmony with the area in which it is to be located; or
- (4) Will not be in general conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the city council.

(Prior Code, § 23-68)

Sec. 101-136. Special-use permits; conditions for approval.

(a) An application for a special-use permit shall be submitted to the city council with a recommendation from the planning and zoning commission, by way of filing a copy of the application with the city planner in the development department.

(b) Subject to subsection (d) of this section, the city council shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- (1) The requested permit is not within the jurisdiction of the city according to the table of approved uses;
- (2) The application is incomplete; or
- (3) If the development is not completed as proposed in the application, the development will not comply with one or more requirements of this subpart (not including those requirements concerning which a variance has been granted or those not required of the applicant is not required to comply with under the circumstances specified in article VII, nonconforming situations).

(c) In review of an application, the city council, following a recommendation from the planning and zoning commission, may approve or conditionally approve the request pursuant to the following findings:

- (1) The proposed use is consistent with the city comprehensive plan, this subpart and the intended uses of the zoning district as established in chapter 117, article II.
- (2) The proposed use, together with the applicable conditions, will not be detrimental to the public health, safety, or general welfare of the city.
- (3) The proposed use is properly located relative to the community as a whole and to land uses and transportation and service facilities in the vicinity.
- (4) The size and shape of the subject property is adequate to provide features needed to ensure reasonable compatibility with the land uses normally permitted in the surrounding area. Features may include, but are not limited to yards, open spaces, walls and fences, parking, loading, landscaping, and such features as may be required by this subpart or conditionally by the city council.

- (5) Public utilities and facilities are, or will be, adequate to serve the proposed use. This included paved streets, of adequate width, for the quantity and type of traffic it will generate.
- (6) The proposed use will not adversely affect nearby properties or their permitted uses.
 - (d) Even if the city council finds that the application complies with all other provisions of this subpart, it may still deny the permit if it concludes, based upon information submitted at the hearing, that completed as proposed, the development, more probably than not:
 - (1) Will endanger the public health and safety;
 - (2) Will substantially injure the value of adjoining or abutting property;
 - (3) Will not be in harmony with the area in which it is located; or
 - (4) Will not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the city council.

(Ord. No. 1733, § 23-73.1, 4-16-2012)

Sec. 101-137. Burden of presenting evidence; burden of persuasion.

(a) The burden of presenting a complete application (as described in section 101-130) to the planning and zoning commission and the city council shall be upon the applicant. However, unless the planning and zoning commission informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.

(b) Once a completed application has been submitted, the burden of presenting sufficient evidence, to the planning and zoning commission and to the city council, to lead it to conclude that the application should be denied for any reasons stated in section 101-135(c)(1), (3) or (d), shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(c) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this subpart remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in section 101-135(d) rests on the party or parties urging that the requested permit should be denied.

(Prior Code, § 23-69)

Sec. 101-138. Recommendations on special-use permit applications.

(a) When presented to the planning and zoning commission at the hearing, the application for a special-use permit shall be accompanied by a report with the planning staff's proposed findings concerning the application's compliance with section 101-130 (applications to be complete) and the other requirements of this subpart, as well as any staff recommendations for additional requirements to be imposed by the city council.

- (b) If the staff proposed a finding or conclusion that the application fails to comply with section 101-130 or any other requirement of this subpart, it shall identify the requirements in question, and specifically state supporting reasons for those proposed findings or conclusions.
- (c) The city council may, by general rule applicable to all cases, refer applications back to the planning and zoning commission to obtain further recommendations.
(Prior Code, § 23-70; Ord. No. 1733, 4-16-2012)

Sec. 101-139. Recommendations on preliminary plat approval applications.

- (a) Before being presented to the city council, an application for a preliminary plat approval shall be referred to the planning and zoning commission for action in accordance with this section. The planning and zoning commission shall hold a public hearing on a preliminary plat approval application pursuant to standard agenda procedures. In addition, the city council shall hold a public hearing.
- (b) When presented to the planning and zoning commission, the application shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with section 101-131 and other requirements in this subpart, as well as any staff recommendations for additional requirements to be imposed by the city council. If the planning staff report proposes a finding or conclusion that the application fails to comply with section 101-131 or any other requirement in this subpart, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- (c) The planning and zoning commission shall consider the application and the attached staff report in a timely fashion, and may, in its discretion, hear from the applicant or member of the public. Notice to the adjoining property owners is provided for in section 101-298.

- (d) After reviewing the application, the planning and zoning commission shall report to the city council whether it concurs in whole or in part with the staff's proposed findings and conditions, and, to the extent there are differences, the planning commission shall propose its own recommendations and the reasons therefor.

(Prior Code, § 23-71)

Sec. 101-140. City council action on preliminary plat approvals.

In considering whether to approve an application for a preliminary plat approval, the city council shall proceed according to the following format:

- (1) The city council shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the city council that the application is complete.
- (2) The city council shall consider whether the application complies with all of the applicable requirements of this subpart. If a motion to this effect passes, the city

council need not make further findings concerning such requirements. If such a motion fails or is not made, then a motion shall be made that the application be found not in compliance with one or more of the requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the city council to be unsatisfied through this process.

- (3) If the city council concludes that the application fails to comply with one or more requirements of this subpart, the application shall be denied. If the city council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more reasons set forth in section 101-135(d). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

(Prior Code, § 23-72)

Sec. 101-141. City council action on special-use permits.

In considering whether to approve an application for a special-use permit, the city council shall proceed in the same manner as when considering preliminary plat approval applications (section 101-140).

- (1) The city council shall consider whether the application is complete. If the city council concludes that the application is incomplete, and the applicant refuses to provide the additional requested information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. If a motion to this effect is not made and concurred, this shall be taken as an affirmative finding by the city council that the application is complete.
- (2) The city council shall consider whether the application complies with all applicable requirements of this subpart. If a motion to this effect passes, then the city council need not make further findings concerning such requirements. If the motion fails to receive the necessary vote, or is not made, then a motion shall be made that the application be found not in compliance with one or more requirements of this subpart. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the city council to be unsatisfied through this process. As provided in section 101-135(d), if the city council concludes that the application fails to meet one or more of the requirements of this subpart, the application shall be denied.
- (3) If the city council concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in section 101-135 and 101-142. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

(Prior Code, § 23-73; Ord. No. 1733, 4-16-2012)

Sec. 101-142. Additional requirements on special-use permit applications.

(a) The city council may apply reasonable conditions of approval to assure compliance with the applicable regulations and standards, including those recommended by city staff. The following provides guidelines for additional conditions of approval:

- (1) Conformity with site plan, architectural drawings, or statements submitted in support of the application, or as modified during the review process to protect the public health, safety and general welfare, and to secure the objectives of this subpart and comprehensive plan.
 - (2) Special buffer yards, screening and landscaping as needed to offset impacts to surrounding properties.
 - (3) Surfacing or parking areas for both public and non-public vehicular accommodations.
 - (4) Street dedications and improvements, including the provision for service roads or alleys, when practical.
 - (5) Dedications of utility easements, sites for public uses, and preservation of open space.
 - (6) Regulating points of vehicular ingress and egress.
 - (7) Regulations of signs.
 - (8) Landscaping and its maintenance.
 - (9) Maintenance of the grounds.
 - (10) Control of noise, vibration, odors, glare and other potentially dangerous or objectionable elements.
 - (11) Limits on time for the conduct of certain activities.
 - (12) Time period within which the proposed use shall be developed.
 - (13) Conditions addressing the orderly and efficient development of the city and consistency with the interest and purposes set forth in this subpart and comprehensive plan.
- (b) The city council may not attach additional conditions that modify or alter the specific requirements set forth in this subpart unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- (c) Without limiting the foregoing, the city council may attach a condition to a permit limiting the permit to a specified duration of operations.
- (d) All additional conditions or requirements shall be entered on the permit.
- (e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this subpart.
- (f) A vote may be taken regarding application conditions or requirements, before consideration as to whether the permit should be approved or denied, for any of the reasons set forth in section 101-135.

(Ord. No. 1733, § 23-73.1, 4-16-2012)

Sec. 101-143. Additional requirements on special-use and preliminary plat approvals.

(a) Subject to subsection (b) of this section, in granting a special-use or preliminary plat approval, the city council may attach to the permit such reasonable requirements in addition to those specified in this subpart to ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining property or abutting property;
- (3) Will be in harmony with the area in which it is located; and
- (4) Will be in conformity with the comprehensive plan, thoroughfare plan, or other plan officially adopted by the city council.

(b) The city council may not attach additional conditions that modify or alter the specific requirements set forth in this subpart unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the city council may attach a condition to a permit limiting the permit to a specified duration.

- (d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this subpart.

(f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in section 101-135.

(Prior Code, § 23-74)

Sec. 101-144. Authorizing use, occupancy, or sale before completion of development under special-use or preliminary plat approvals.

(a) In cases when, because of weather conditions or other factors beyond the control of the special-use or preliminary plat approval recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this subpart before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the city council may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this subpart are concerned) if the permit recipient provides a performance bond to the city council to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months).

(b) When the city council imposes additional requirements upon the permit recipient in accordance with section 101-143 or when the developer proposes in the plans submitted to install amenities beyond those required by this subpart, the city council may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it

specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

- (1) A performance bond is furnished to the city council;
 - (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
 - (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by section 101-238 (penalties and remedies for violations) and section 101-239 (permit revocation).
- (c) With respect to subdivisions in which the developer is selling only undeveloped lots, the city council may authorize final plat approval and the sale of lots before all the requirements of this subpart are fulfilled if the subdivider provides an escrow secured with cash or an irrevocable letter of credit deposited with the city or a performance bond to the city council to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval.

(Prior Code, § 23-75)

Sec. 101-145. Completing developments in phases.

- (a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c) of this section, the provisions of section 101-128 (no occupancy, use, or sale of lots until requirements fulfilled) and section 101-144 (exceptions to section 101-128) shall apply to each phase as if it were the entire development.
- (b) As a prerequisite to taking advantage of the provisions of subsection (a) of this section, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this subpart that will be satisfied with respect to each phase or stage.
- (c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development.
- (d) Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:
 - (1) If the improvement is one required by this subpart then the developer may utilize the provisions of section 101-144(a) or (c).

- (2) If the improvement is an amenity not required by this subpart or is provided in response to a condition imposed by the city council, then the developer may utilize the provisions of section 101-144(b).

(Prior Code, § 23-76)

Sec. 101-146. Expiration of permits.

(a) Approved use, special-use, preliminary plat, and sign permits shall expire automatically if, within one year after the issuance of such permits the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use.

(b) If, after some physical alteration to land or structure begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of section 101-147.

(c) The permit-issuing authority may extend for a period up to six months the date when a permit would otherwise expire pursuant to subsection (a) or (b) of this section if it concludes that:

- (1) The permit has not yet expired;
- (2) The permit recipient has proceeded with due diligence and in good faith; and
- (3) Conditions have not changed so substantially as to warrant a new application.

Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) Notwithstanding any of the provisions of article VII (nonconforming situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

(Prior Code, § 23-77)

Sec. 101-147. Effect of permit on successors and assigns.

(a) Approved use, special-use, preliminary plat, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and
- (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and

wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection (b) of this section) of the existence of the permit at the time they acquired their interest.

- (b) Whenever an approved, special-use, or preliminary plat permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the county registry and indexed under the record owner's name as grantor.

(Prior Code, § 23-78)

Sec. 101-148. Amendments to and modifications of permits.

(a) Insignificant deviations from the permit (including approved plans) issued by the city council or the city planner are permissible, and the city planner may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the city council. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the city council or board of adjustment, new conditions may be imposed in accordance with section 101-143, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth in subsections (a), (b) and (c) of this section.

(e) A developer requesting approval of changes shall submit a written request for such approval to the city planner, and that request shall identify the changes. Approval of all changes must be given in writing.

(Prior Code, § 23-79)

Sec. 101-149. Reconsideration of city council or board of adjustment action.

(a) Whenever the city council disapproves a conditional-use or special-use permit application or the board of adjustment disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

- (1) Circumstances affecting the property that is the subject of the application have substantially changed; or
- (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the city planner within the time period for an appeal to superior court (see section 101-240). However, such a request does not extend the period within which an appeal must be taken.

(b) Notwithstanding subsection (a) of this section, the city council or board of adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

(Prior Code, § 23-80)

Sec. 101-150. Applications to be processed expeditiously.

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the city shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this subpart.

(Prior Code, § 23-81)

Sec. 101-151. Maintenance of common areas, improvements, and facilities.

The recipient of any approved use, special-use, preliminary plat, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this subpart or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

(Prior Code, § 23-82)

Sec. 101-152. Application requirements.

(a) As provided in section 101-130, it is recognized that the charts in this section outline the city's application packages and required submittal requirements. From this information the city shall determine whether the development proposal would comply with all of the requirements of this subpart. The permit issuing authority may require more information or accept less information according to the particular proposal.

- (b) Any submittal that does not meet the requirements as stated in this section shall constitute an incomplete application and shall be returned to the applicant.
- (c) The only opportunity for waiver or adjustment of any of these requirements is by the planning and development manager, following a preapplication conference.
- (d) All plans for the same project shall be submitted at the same scale. Projects that require several applications shall have all plans submitted at the same scale, with a separate plan for each application.
- (e) Plans shall, where possible, include information on as few sheets as possible while still presenting information in a clear and concise manner. The title of the project shall be prominently placed in the upper right quadrant of the plan. All sheets shall be consecutively numbered.
- (f) The application package and plan submittal requirements contained in this section are the minimum amount of information that must be submitted in order for the review process to begin. The applicant may need to submit additional information in order to demonstrate satisfaction of review criteria. All exhibits and information used to demonstrate satisfaction of review criteria must be made part of the plan documents and will be kept on file with the city.
- (g) In circumstances where an application is either postponed or tabled by the planning and zoning commission or the city council for a period greater than four months, the applicant must re-notify all property owners within 185 feet, by certified mail, of the new hearing date in conformance with the notification requirements of this section.

Appendix A

<i>Requirements for Application</i>	<i>Annexation & Zoning</i>	<i>Concept Plan</i>	<i>Development Plan</i>	<i>Special Use Site Plan</i>	<i>Exception to Sub. Regs.</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>	<i>Minor Sub.</i>	<i>ROW Vacate</i>	<i>Easement Vacate</i>	<i>Resolving</i>	<i>Zoning Code Amend</i>
1. Completed petition signed by all property owners of interest	*	*	*	*	*	*	*	*	*	*	*	
2. Completed application form including preapplication conference check-off	*	*	*	*	*	*	*	*	*	*	*	
3. Ownership report (certified by title company) identifying current property owner(s) of subject property	*	*	*	*	*	*	*	*	*	*	*	
4. Legal description of each of the areas to be zoned and delineated on a map	*											

5. A map showing the location of each ownership tract if unplatted land and if part of or all of the area is platted when the boundaries and numbers of all lots and blocks	*			Zoning Code Amend
6. Written statement of proposed changes and rationale for such changes				Frizoning
				Base ment Vacate
				ROW Vacate
				Minor Sub.
				Final Plat
				Preliminary Plat
				Exception to Sub. Regs.
				Special Use Site Plan
				Development Plan
				Concept Plan
				Annexation & Zoning
				Information to be Included on Each Plan
7. Projected number and type of residential units.	*	*		
8. Boundary survey	*			
9. Fee				
10. Certification of surrounding property owner notification within 185 feet of subject property	*			*

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11. 25 folded copies of plans including all applicable information	*	Four sets	*	*	*	*	*	*	*	*	*
1. Sheet size 24"×36"	*	*	*	*	*	*	*	*	*	*	*
2. Sheet size 8½"×11" or 8½"×14"	*	*	*	*	*	*	*	*	*	*	*
3. North arrow, date and engineer's scale as appropriate	*	*	*	*	*	*	*	*	*	*	*
4. Name of the project and project type in prominent title block, upper right-hand corner	*	*	*	*	*	*	*	*	*	*	*
5. Vicinity map at 1¼" mile radius	*	*	*	*	*	*	*	*	*	*	*
6. Legal description of subject property	*	*	*	*	*	*	*	*	*	*	*
7. Basis for establishing bearing	*	*	*	*	*	*	*	*	*	*	*
8. Boundary survey of subject property with name, number and signature of licensed surveyor	*	*	*	*	*	*	*	*	*	*	*
9. Total acreage	*	*	*	*	*	*	*	*	*	*	*

		*														
10. Requested zoning district(s) graphically shown with respective acreage plus legal description for each zoning district																
11. Certification signature blocks (for appropriate format, see section 115-38)																
12. Existing zoning in and adjacent to subject property	*															
13. Names and boundaries of adjacent subdivisions and streets	*	*	*													
14. Proposed lots with approximate dimensions and square footage																
15. Dimensions and square footage of each lot		*														*
16. Lot and block number(s) with lot lines shown		*	*													*
17. Building envelope numbers, if applicable		*	*													

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18. Street names for all streets, within and adjacent to the property	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
19. Location and description of monuments	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
20. Bearings, distances, chords, radii, central angles, tangent links, etc., for all lots, blocks, perimeter, ROW, etc.,																									
21. Bearings, distances, chords, radii, central angles, tangent links, etc., for perimeter only	*																								
22. Existing adjacent street improvements showing pavement width and intersecting streets		*																							
23. Existing ROW in and adjacent to subject property (dimensioned)	*		*		*		*		*		*		*		*		*		*		*		*		
24. Proposed ROW in and adjacent to subject property (dimensioned)		*		*		*		*		*		*		*		*		*		*		*			

25. Existing easements and their type in adjacent to subject property (dimensioned)	*	*	*	*	*	*	*	*
26. Proposed easements and their types in and adjacent to subject property (dimensioned)	*	*	*	*	*	*	*	*
27. Existing utility lines and sizes (including fire hydrants) in and adjacent to subject property	*	*	*	*	*	*	*	*
28. Proposed major utility lines (including fire hydrants) in and adjacent to subject property			*					
29. Proposed utility lines and sizes (including fire hydrants) in and adjacent to subject property	*	*	*	*	*	*	*	*

30. Existing and proposed curb cuts on and adjacent to subject property		*	*	*	*	
31. Traffic control plan where applicable		*	*	*	*	
32. Location and size of detention facilities quantified through a master drainage plan; stormwater drainage study if developer chooses to opt out of on-site detention and pay the city's fee-in-lieu of on-site detention		*	*	*	*	
33. Delineation of floodplain boundaries (100 yr.)		*	*	*	*	*
34. Identification of areas where special buffering techniques will be utilized (perimeter and internal)		*	*	*	*	

35. Existing type and location of structures and paved areas on the site	*	*	*	*	*	*	*	*	*	*	*	*	*	*
36. Proposed type and location of structures and paved areas on the site	*	*	*	*	*	*	*	*	*	*	*	*	*	*
37. Type and number of residential units	*	*	*	*	*	*	*	*	*	*	*	*	*	*
38. Dimensioned parking area layout with parking spaces, drives and backup areas dimensioned	*	*	*	*	*	*	*	*	*	*	*	*	*	*
39. Sign locations and specifications	*	*	*	*	*	*	*	*	*	*	*	*	*	*
40. Exterior lighting locations and specifications	*	*	*	*	*	*	*	*	*	*	*	*	*	*
41. Trash-disposal area locations, specifications, and screening	*	*	*	*	*	*	*	*	*	*	*	*	*	*
42. Electric transformer locations (single-family through four-plex excluded)	*	*	*	*	*	*	*	*	*	*	*	*	*	*

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43. Maximum height of all structures	*	*	*	*	*	*	*	*
44. All areas to be dedicated for public use (parks, ROW, utility easements, etc.)	*	*	*	*	*	*	*	*
45. Final landscaping plan, meeting all landscape regulations including existing vegetation to remain as approved	*	*	*	*	*	*	*	*
46. Phasing plan graphically delineated	*	*	*	*	*	*	*	*
47. Two-foot contours; existing contours should be shown as dotted lines	*	*	*	*	*	*	*	*
48. Final engineering (plan view) for storm drainage, utilities, streets	*	*	*	*	*	*	*	*
49. Number of meters per lot based upon the type of unit								

50. Location and dimensions of all buildings with setbacks shown							
Documents/ Information/ Requirements Prior to Recording of Ordinance or Mylar							
1. Fully executed agreements	*	*	*	*	*	*	*
2. Fully executed memorandum of agreement for public improvements, including financial security (where public improvements required and approved)	*	*	*	*	*	*	*
3. All applicable deeds, agreements, fees, payments, etc., required by ordinance or as condition of approval, all full executed	*	*	*	*	*	*	*
4. Ink on Mylar or reproduction on Mylar with all required signatures (original in black ink) except for those of approving body, mayor and clerk and recorder				*	*		

5.	Stamped/sealed set of as-builts following construction completion	*	*
6.	Submittal of recorded set of plans on disk to the city mapping technician	*	*

(Prior Code, ch. 23, app. A; Ord. No. 1737, 5-21-2012)

Secs. 101-153—101-172. Reserved.

ARTICLE IV. APPEALS, VARIANCES, INTERPRETATIONS***Sec. 101-173. Appeals.**

- (a) An appeal from any final order or decision of the city planner may be taken to the board of adjustment by any person aggrieved. Such appeal shall be taken within a reasonable time, as provided by the rules of the board. An appeal is taken by filing with the city planner and the board of adjustment a written notice of appeal specifying the grounds. A notice of appeal shall be considered filed with the city planner and the board of adjustment when delivered to the development department, and the date and time of the filing shall be entered on the notice by the planning staff.
- (b) An appeal must be heard within a reasonable time after the date of the decision or order appealed from.
- (c) Whenever an appeal is filed, the city planner shall transmit to the board of adjustment all the papers constituting the record relating to the action appealed from.
- (d) An appeal stays all actions by the city planner seeking enforcement of or compliance with the order or decision appealed from, unless the city planner certifies to the board of adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the board of adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the city planner.
- (e) The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board of adjustment shall have powers of the officer from whom the appeal is taken.

(Prior Code, § 23-101)

Sec. 101-174. Variances.

- (a) An application for a variance shall be submitted to the board of adjustment by filing a copy of the application with the city planner in the development department. Applications shall be handled in the same manner as applications for special-use permits in conformity with the provisions of sections 101-129, 101-130, and 101-131.
- (b) A variance may be granted by the board of adjustment if it concludes that strict enforcement of this subpart would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this subpart will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:
- (1) If the applicant complies strictly with the provisions of this subpart, he can make no reasonable use of his property;

***State law reference**—Appeals, variances, etc., RSMo 89.090 et seq.

- (2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
 - (3) The hardship relates to the applicant's land, rather than personal circumstances;
 - (4) The hardship is unique, or nearly so, rather than personal circumstances;
 - (5) The hardship is not the result of the applicant's own actions; and
 - (6) The variance will neither result in the extension of a nonconforming situation in violation of article VII of this chapter, nor authorize the initiation of a nonconforming use of land.
- (c) In granting variances, the board of adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- (d) A variance may be issued for an indefinite duration or for a specified duration only.
- (e) The nature of the variance and any conditions attached to it shall be entered on the face of the approved use permit or the approved use permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any applicable requirement of this subpart.
(Prior Code, § 23-102)

Sec. 101-175. Interpretations; boundaries of city.

- (a) The board of adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the city planner, they shall be handled as provided in section 101-173.
- (b) An application for a map interpretation shall be submitted to the board of adjustment by filing a copy of the application with the city planner in the development department. The application shall contain sufficient information to enable the board of adjustment to make the necessary interpretation.
- (c) Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:
 - (1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines.
 - (2) Boundaries indicated as approximately following lot lines or city limits shall be construed as following those lot lines or limits.
- (d) Interpretations of the location of floodway and floodplain boundary lines may be made by the city planner.
(Prior Code, § 23-103)

Sec. 101-176. Requests to be heard expeditiously.

(a) When an appeal is taken to the board of adjustment in accordance with section 101-173, the city planner shall have the initial burden of presenting to the board of adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(b) The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions set forth in section 101-174, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

(Prior Code, § 23-104)

Sec. 101-177. Board of adjustment action on appeals and variances.

(a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption (see section 101-97), then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board of adjustment's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).

(b) A motion to deny a variance may be made on the basis that any one or more of the six criteria set forth in section 101-174 are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board of adjustment's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).

(Prior Code, § 23-105)

Secs. 101-178—101-207. Reserved.**ARTICLE V. HEARING PROCEDURES FOR APPEALS AND APPLICATIONS****Sec. 101-208. Hearing required on appeals and applications.**

(a) Before making a decision on an appeal or an application for a variance, special-use permit, or preliminary plat permit, or a zoning map amendment, or a petition from the planning staff to revoke a special-use permit or a preliminary plat approval, the city council shall hold a hearing on the appeal or application.

(b) Subject to subsection (c) of this section, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

(c) The city council may place reasonable and equitable limitations on the presentation of evidence and arguments and ask questions of the persons who testify.

(d) The city council may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

(Prior Code, § 23-111)

Sec. 101-209. Notice of hearing.

(a) The city planner shall give notice of any hearing required by section 101-208 as follows:

(1) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than ten days before the hearing.

(2) Notice shall be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted not less than seven days prior to the hearing.

(3) In the case of preliminary plat approvals, notice shall be given to other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than seven nor more than 15 days prior to the hearing.

(b) The applicant shall be responsible for sending out notice to neighboring property owners by mailing a written notice not later than ten days before the hearing to those persons who have listed for taxation real property any portion of which is located within 185 feet of the lot that is the subject of the application or appeal. Property owner information to be obtained in the assessor's office at the county courthouse.

(Prior Code, § 23-112)

Sec. 101-210. Evidence.

(a) The provisions of this section apply to all hearings for which a notice is required by section 101-208.

(b) All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.

(c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

(Prior Code, § 23-113)

Sec. 101-211. Modification of application at hearing.

(a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the city council, the applicant may agree to modify his application, including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the city council cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the development department.

(Prior Code, § 23-114)

Sec. 101-212. Record.

(a) Accurate minutes shall be kept of all such proceedings, but a transcript need not be made.

(b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the city for at least two years.

(Prior Code, § 23-115)

Sec. 101-213. Written decision.

(a) Any decision made by the board of adjustment or the city council regarding an appeal or variance or issuance or revocation of a preliminary plat approval or special-use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

(b) In addition to a statement of the city council's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the city council's findings and conclusions, as well as supporting reasons or facts, whenever this subpart requires the same as a prerequisite to taking action.

(Prior Code, § 23-116)

Secs. 101-214—101-234. Reserved.**ARTICLE VI. ENFORCEMENT AND REVIEW****Sec. 101-235. Complaints regarding violations.**

Whenever the city planner receives a written, signed complaint alleging a violation of this subpart, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

(Prior Code, § 23-120)

Sec. 101-236. Persons liable.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this subpart may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(Prior Code, § 23-121)

Sec. 101-237. Procedures upon discovery of violations.

(a) If the city planner finds that any provision of this subpart is violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the city planner's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the city planner intends to take if the violation is not corrected and shall advise that the city planner's decision or order may be appealed to the board of adjustment in accordance with section 101-173.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this subpart or pose a danger to the public health, safety, or welfare, the city planner may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in section 101-238.

(Prior Code, § 23-122)

Sec. 101-238. Penalties and remedies for violations.

(a) Violations of this subpart pertaining to zoning (i.e., that are enacted pursuant to RSMo 80.010—89.140) are punishable as provided in RSMo 89.120.

(b) Any act constituting the illegal subdivision of land or any other violation of this subpart not covered by subsection (a) of this section is punishable as provided in section 1-9. The city has the authority to withhold permits that are related to the violation or connected with the person accused of violating this Code until the matter can be resolved through the fine or municipal court.

(Prior Code, § 23-123)

State law reference—Penalty for zoning violations, RSMo 89.120.

Sec. 101-239. Permit revocation.

(a) An approved use, sign, special-use, or preliminary plat approval may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this subpart, or any additional requirements lawfully imposed by the city council.

(b) Before a conditional-use or special-use permit may be revoked, all of the notice and hearing and other requirements of article V shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (a) of this section shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before an approved use or sign permit may be revoked, the city planner shall give the permit recipient ten days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the city planner shall provide to the permittee a written statement of the decision and the reasons for it.

(d) No person may continue to make use of land or buildings in the manner authorized by any approved use, sign, special-use or preliminary plat approval after such permit has been revoked in accordance with this section.

(Prior Code, § 23-124)

Sec. 101-240. Judicial review.

(a) Every decision of the city council granting or denying a preliminary plat approval and every final decision of the board of adjustment shall be subject to review by the superior court of county by proceedings in the nature of certiorari.

(b) The petition for the writ of certiorari must be filed with the county clerk of court within 30 days after the later of the following occurrences:

(1) A written copy of the city council's decision (see section 101-213) has been filed in the office of the development department, and

(2) A written copy of the city council's decision (see section 101-213) has been delivered by personal service or certified by mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(c) A copy of the writ of certiorari shall be served upon the city.

(Prior Code, § 23-125)

Secs. 101-241—101-258. Reserved.

ARTICLE VII. NONCONFORMING SITUATIONS**Sec. 101-259. 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:

Dimensional nonconformity means a nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Effective date of the ordinance from which this subpart is derived, means, whenever this article refers to the effective date of this subpart, the reference shall be deemed to include the effective date of any amendments to this subpart if the amendment, rather than this subpart as originally adopted, creates a nonconforming situation.

Expenditure means a sum of money paid out in return for some benefit or to fulfill some obligation. The term "expenditure" also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

Nonconforming lot means a lot existing at the effective date of the ordinance from which this subpart is derived (and not created for the purposes of evading the restrictions of this subpart) that does not meet the minimum area requirement of the district in which the lot is located.

Nonconforming project means any structure, development, or undertaking that is incomplete at the effective date of the ordinance from which this subpart is derived, this subpart and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming sign means a sign (see section 113-2) that on the effective date of the ordinance from which this subpart is derived does not conform to one or more of the regulations set forth in this subpart, particularly chapter 113, signs.

Nonconforming situation means a situation that occurs when, on the effective date of the ordinance from which this subpart is derived, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not used for purposes made unlawful by this subpart. Nonconforming signs shall not be regarded as nonconforming situations for purposes of this article but shall be governed by the provisions of section 113-5.

Nonconforming use means a nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential

district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

(Prior Code, § 23-131)

Sec. 101-260. Continuation of nonconforming situations and completion of nonconforming projects.

(a) Unless otherwise specifically provided in this subpart and subject to the restrictions and qualifications set forth in sections 101-261 through 101-266, nonconforming situations that were otherwise lawful on the effective date of the ordinance from which this subpart is derived may be continued.

(b) Nonconforming projects may be completed only in accordance with the provisions of section 101-266.

(Prior Code, § 23-132)

Sec. 101-261. Nonconforming lots.

(a) When a nonconforming lot can be used in conformance with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in section 113-5, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (section 117-228) cannot reasonably be complied with, then the entity authorized by this subpart to issue a permit for the proposed use (the city planner or the city council) may allow deviations from the applicable setback requirements if it finds that:

- (1) The proposed property cannot reasonably be developed for the use proposed without such deviations;
- (2) These deviations are necessitated by the size or shape of the nonconforming lot; and
- (3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(c) For purposes of subsection (b) of this section, compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(d) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with section 101-264.

(e) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

(Prior Code, § 23-133)

Sec. 101-262. Extension or enlargement of nonconforming situations.

(a) Except as specifically provided in this section, no person may engage in an activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

- (1) An increase in the total amount of space devoted to a nonconforming use; or
- (2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to subsection (d) of this section, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this subpart, was manifestly designed or arranged to accommodate such use. However, subject to section 101-266 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

(c) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount to only changes in the degree of activity rather than changes in kind and no violations of other subsections of this section occur.

(d) Notwithstanding subsection (a) of this section, any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This subsection is subject to the limitations stated in section 101-265 (abandonment and discontinuance of nonconforming situations).

(e) Notwithstanding subsection (a) of this section, whenever there exists a lot with one or more structures on it; and a change in use that does not involve any enlargement of a structure is proposed for such lot; and the parking or loading requirements of chapter 111, article V, that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without additional land, and shall also be required to obtain satellite parking in accordance with section 111-208:

- (1) Parking requirements cannot be satisfied on the lot with respect to which the permit is required; and
- (2) Such satellite parking is reasonably available.

If such satellite parking is not reasonably available at the time the zoning or special, or preliminary plat approval is granted, then the permit recipient shall be required to obtain it if and when it becomes reasonably available. This requirement shall be a continuing condition of the permit.

(Prior Code, § 23-134)

Sec. 101-263. Repair, maintenance and reconstruction.

(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 25 percent of the appraised valuation of the structure to be renovated may be done only in accordance with an approved use permit issued pursuant to this section.

(b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 25 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with an approved use permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to an approved use permit just as they may be enlarged or replaced as provided in section 101-262(d).

- (c) For purposes of subsections (a) and (b) of this section:

- (1) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
- (2) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsection (a) or (b) of this section by doing such work incrementally.

- (3) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the land valuation, or the valuation determined by a professionally recognized property appraiser.
 - (d) The city planner shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:
 - (1) No violation of section 101-262 will occur; and
 - (2) The permittee will comply to the extent reasonably possible with all provisions of this subpart applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).
 - (e) Compliance with a requirement of this subpart is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.
- (Prior Code, § 23-135)

Sec. 101-264. Change in use of property where a nonconforming situation exists.

- (a) A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new approved use, special-use, or preliminary plat approval in accordance with section 101-127 may not be made except in accordance with subsections (b) through (d) of this section. However, this requirement shall not apply if only a sign permit is needed.
- (b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this subpart applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this subpart is achieved, the property may not revert to its nonconforming status.
- (c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this subpart applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this subpart to issue a permit for that particular use (the city planner or city council) issues a permit authorizing the change. This permit may be issued if the permit-issuing authority finds, in addition to any other findings that may be required by this subpart, that:

- (1) The intended change will not result in a violation of section 101-262; and
- (2) All of the applicable requirements of this subpart, that can reasonably be complied with, will be complied with. Compliance with a requirement of this subpart is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial

structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

- (d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this subpart to issue a permit for that particular use (city planner or city council) issues a permit authorizing the change. The permit-issuing authority may issue the permit if it finds, in addition to other findings that may be required by this subpart, that:
- (1) The use requested is one that is permissible in some zoning district with either an approved use, special-use, or preliminary plat approval;
 - (2) All of the conditions applicable to the permit authorized in subsection (c) of this section are satisfied; and
 - (3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

(Prior Code, § 23-136)

Sec. 101-265. Abandonment and discontinuance of nonconforming situations.

- (a) When a nonconforming use is:
- (1) Discontinued for a consecutive period of 180 days; or
 - (2) Discontinued for any period of time without a present intention to reinstate the nonconforming use;

the property involved may thereafter be used only for conforming purposes. When a residential property is being actively marketed for tenants to continue the use, the use is not deemed to have stopped.

- (b) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is:

- (1) Discontinued for a consecutive period of 180 days; or
- (2) Discontinued for any period of time without a present intention of resuming that activity;

then that property may thereafter be used only in conformity with all of the regulations applicable to the pre-existing use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e.,

cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.

(c) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(d) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of the ordinance from which this subpart is derived, the 180-day period for purposes of this section begins to run on the effective date of the ordinance from which this subpart is derived.

(Prior Code, § 23-137; Ord. No. 1641, 3-8-2010)

Sec. 101-266. Completion of nonconforming projects.

(a) All nonconforming projects approved before the effective date of the ordinance from which this subpart is derived can be continued. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

(b) When it appears from the developer's plans that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under this subsection. The permit-issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

- (1) Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.
- (2) Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.
- (3) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

(Prior Code, § 23-138)

Secs. 101-267—101-295. Reserved.**ARTICLE VIII. AMENDMENTS*****Sec. 101-296. Amendments in general.**

(a) Amendments to the text of this subpart or to the zoning map may be made in accordance with the provisions of this article.

(b) The term major map amendment shall refer to an amendment that addresses the zoning district classification of five or more tracts of land in separate ownership or any parcel of land (regardless of the number of lots or owners) in excess of 50 acres. All other amendments to the zoning district map shall be referred to as minor map amendments.

(Prior Code, § 23-341)

Sec. 101-297. Initiation of amendments.

(a) Whenever a request to amend this subpart is initiated by the city council, planning and zoning commission, the board of adjustment, or city staff, the city attorney in consultation with the planning staff shall draft an appropriate ordinance and present that ordinance to the city council so that a date for a public hearing may be set.

(b) Any other person may also petition the city council to amend this subpart. The petition shall be filed with the city planner and shall include, among the information deemed relevant by the city planner:

- (1) The name, address, and phone number of the applicant;
- (2) A description of the land affected by the amendment if a change in a zoning district classification is proposed;
- (3) Receipts of certified mailings from those who received a notice of the public hearing, as provided in section 101-298(c);
- (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this subpart.

(Prior Code, § 23-342)

Sec. 101-298. Hearing required; notice.

(a) No ordinance that amends any of the provisions of this subpart may be adopted until a public hearing has been held on such ordinance.

(b) The city planner shall publish a notice of the public hearing on any ordinance that amends the provisions of this subpart one time in a paper with local circulation 15 days prior to the public meeting.

***State law reference**—Amendments, RSMo 89.050, 89.060, 89.410.

(c) With respect to minor map amendments, the applicant shall mail written notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties any portion of which is within 185 feet of the property rezoned by the amendment.

(d) The planning staff shall also post notices of the public hearing in the vicinity of the property to be rezoned by the proposed amendment and take any other action deemed by the planning staff to be useful or appropriate to give notice of the public hearing on any proposed amendment.

(e) The notice required or authorized by this section shall:

- (1) State the date, time, and place of the public hearing;
- (2) Summarize the nature and character of the proposed change;
- (3) If the proposed amendment involves a change in the zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
- (4) State that the full text of the amendment can be obtained from the city clerk; and
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

(f) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the city council's intention that no failure to comply with any of the notice provisions (except those set forth in subsection (b) of this section) shall render any amendment invalid.

(Prior Code, § 23-343)

Sec. 101-299. City council action on amendments.

(a) At the conclusion of the public hearing on a proposed amendment, the city council may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(b) The city council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(c) Voting on amendments to this subpart shall proceed in the same manner as other ordinances, subject to section 101-301.

(Prior Code, § 23-344)

Sec. 101-300. Ultimate issue before city council on amendments.

In deciding whether to adopt a proposed amendment to this subpart, the central issue before the city council is whether the proposed amendment advances public health, safety, or welfare.

All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

- (1) The city council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the city council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.
- (2) The city council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

(Prior Code, § 23-345)

Sec. 101-301. Protests to zoning district changes.

- (a) If a petition opposing a change in the zoning classification of any property is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the city council membership.
 - (b) To trigger the three-fourths vote requirement, the petition must:
 - (1) Be signed by the owners of ten percent or more either of:
 - a. The lots included in a proposed change;
 - b. The lots within 185 feet of either side or the rear of the tract to be zoned; or
 - c. The lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of such opposite lots.
 - (2) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.
 - (3) Be received by the city clerk in sufficient time to allow the city at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.
 - (4) Be on a form provided by the city clerk and contain all the information requested on this form.

(Prior Code, § 23-346)

Chapter 102

RESERVED

Chapter 103

BUILDINGS AND BUILDING REGULATIONS

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ARTICLE I. IN GENERAL***Sec. 103-1. Codes adopted.**

- (a) The ICC International Building Code, 2018 edition, as published by the International Code Council, Inc. is the building code of the city for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said ICC International Building Code, are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in section 103-2.
- (b) The ICC International Residential Code for One- and Two-Family Dwellings 2018 edition, as published by the International Code Council, Inc., including Appendices A, B, C, D, G, H, I, J, K, N, P, and Q, is the one- and two-family dwelling code for the city regulating the fabrication, erection, construction, enlargement, alteration, repair, location and use of detached one- and two-family dwellings, their appurtenances and accessory structures in the jurisdiction of the city; and providing for the issuance of permits therefore providing penalties for the violation hereof, and repealing all ordinances and parts of this chapter in conflict therewith.
- (c) The ICC International Plumbing Code 2018 edition, as published by the International Code Council, Inc., including Appendix E, is the plumbing code of the city for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said ICC International Plumbing Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, and with the additions insertions, deletions and changes, if any, prescribed in section 103-2.
- (d) The ICC International Mechanical Code 2018 edition, as published by the International Code Council, Inc., including Appendix A, is the mechanical code of the city for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said ICC International Mechanical Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in section 103-2.
- (e) [The] ICC International Property Maintenance Code 2018 edition, as published by the International Code Council, Inc. is the property maintenance code of the city for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said ICC International Property Maintenance Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertion, deletions and changes, if any, prescribed in section 103-2.

***Editor's note**—Ord. No. 2018, § I, adopted Oct. 22, 2018, amended Art. I in its entirety to read as herein set out. Former Art. I, §§ 103-1—103-4, pertained to similar subject matter, and derived from the Prior Code, §§ 5-1—5-4; Ord. No. 1443, 8-2006; Ord. No. 1469, 1-2007; Ord. No. 1543, 7-2008; Ord. No. 1773, 1-22-2013; Ord. No. 1828, 10-20-2014; Ord. No. 1934, 3-20-2017)

(f) The ICC International Fire Prevention Code 2018 edition, as published by the International Code Council, Inc. is the fire prevention code of the city for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said ICC International Fire Prevention Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes if any, prescribed in section 103-2.

(g) The 2017 Edition of the National Electrical Code/NFPA-70-2011), as published by the National Fire Protection Association, is the electrical code of the city, for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions, and terms of said NFPA National Electrical Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in section 103-2.

(h) The ICC International Energy Conservation Code 2018 edition, as published by the International Code Council, Inc. is the energy conservation code of the city, for the control of buildings and structures as herein provided, and each and all of regulations, provisions, penalties, conditions and terms of said ICC International Energy Conservation Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in section 103-2.

(i) The ICC International Fuel/Gas Code 2018 edition, as published by the International Code Council, Inc., including Appendices A, B, C, and D, is the fuel/gas code of the city, for the control of buildings and structures as herein provided, and each and all of the regulations, provisions, penalties, conditions, and terms of said ICC International Fuel/Gas Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in section 103-2.

(Ord. No. 2018, § I, 10-22-2018)

State law reference—Adoption by reference, RSMo 67.280.

Sec. 103-2. Amendments.

I) International Building Code.

a. The International Building Code adopted in Section 103-1 is hereby amended by substituting the following Sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Building Code/2018 or where there is no corresponding Section in the code the following Sections shall be enacted as additions, changes or alteration to that code:

1. Section 101.1 Insert: "The City of Nixa".
2. Delete Section 1608.2 in its entirety and add in its place a new Section 1608.2 to read as follows: "1608.2 Ground Snow Load; The ground snow load for the City of Nixa, Missouri shall be a minimum of 20 pounds per square foot."
3. Section 1612.3 Insert: "City of Nixa".
4. Delete Chapter 34 in its entirety.

5. Section 423 is amended to include the following addition: Section 423.4.3 Group E Occupancy Campuses: Where a Group E Occupancy building having an aggregate occupant load of 50 or more is added to an existing Group E occupancy campus, a storm shelter complying with ICC 500 and capable of housing the total occupant load of all the Group E Occupancy buildings on campus shall be installed when the additional building increases the floor area of the classrooms, vocational rooms, and offices of the campus by more than 25%.

II) International Residential Code.

- a. International Residential Code/2018, including Appendices A, B, C, D, G, H, I, J, K, N, P, Q as adopted by Section 103-1 is hereby amended by substituting the following Sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Residential Code/2018 or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to that code:
1. Section R101.1 Insert; "The City of Nixa".
 2. Delete in its entirety Section R112.
 3. Section R113.4 Add a sentence to the end of the paragraph to read as follows; "The penalties are set forth in Section 1-9 of the Code of Ordinances of the City of Nixa.
 4. Insert the following values in Table R301.2(1):

Ground Snow Load	20 PSF
Wind Speed (mph)	115 MPH
Seismic Design Category	B
Weathering	Severe
Frost Line Depth	18 Inches
Termite	Moderate to Heavy
Decay	Slight to Moderate
Ice Shield Underlayment Required	Yes
Flood Hazard	Sec 107-6
Air Freezing Index	659
Winter Design Temp	9°F
Air Freezing Index	1500 or less
Mean Annual Temp	56°F
Elevation	1296 feet
Latitude	37°N, 93°W
Winter Heating	11°F
Summer Cooling	92°F
Altitude Correction Factor	0.96
Indoor Design Temperature	70°F

Wind Velocity Heating	15 mph if site specific speed unknown
Wind Velocity Cooling	15 mph if site specific speed unknown
Coincident Wet Bulb	74°F
Daily Range	M

5. Storage areas accessible from the exterior of the residence shall meet the requirements for dwelling/garage opening/penetration protection. R302.5 in the 2018 IRC.
6. Delete Section R302.13 Fire Protection of floors, in its entirety.
7. Amend Section R313 'Automatic Fire Sprinkler Systems' by deleting subsection R313 in its entirety and enacting a new sub-section which said new sub-section shall read as follows: R313 Automatic Fire Sprinkler Systems. A builder of five or more connected units shall comply with the design and installation requirements of the 2012 International Residential Code suppressant separation as provided in Section R317 of the 2006 IRC or Section P2904 of the 2012 IRC at the builder's or purchaser's cost and option.
8. Repeal Section R315, Carbon monoxide alarms, subsection R315.3, as follows, where required in existing dwellings, in its entirety, and provide a new subsection R315.3 as follows:
 - R315.3 alterations and addition. When alterations or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with carbon monoxide alarms as required for new dwellings.

Exceptions:

1. Work involving the exterior surfaces of dwellings such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.
2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.
9. Repeal Section R403, Footings, subsection R4031.3.1 in its entirety, and provide a new subsection R403.1.3.1, as follows:

R403.1.3.1 Footings with stem walls. Footings shall be provided with a minimum of two No. 4 bars equally placed approximately eight inches apart horizontally and between two and four inches above the bottom of the footing. If the footing is wider than 24 inches, a third No. 4 bar shall be added and all three shall be equally spaced across the width of the footing, beginning at least two inches from each outer edge.

Stem walls shall be provided with a minimum of two horizontal No. 4 bars, to be located approximately three (3) inches from the exterior surface of the wall and spaced approximately eighteen (18) inches apart vertically with the top and

bottom bars within six (6) inches of the top and bottom of the stem wall. If the stem wall is taller than three feet, additional bars shall be added such that the spacing between the horizontal bars is not greater than eighteen (18) inches. Vertical No. 4 bars shall be used to adequately support the horizontal reinforcement.

10. Repeal Section R504, Decks subsection 507.3.1 and 507.3.2 and provide new subsection 507.3.1 and 507.3.2 as follows:

Exterior footings shall be placed not less than 12 inches below the undisturbed ground surface.

- 18" below finished grade.
- 18" square or 18" round diameter

Post size shall be 6 x 6 and a maximum height shall be 14'0".

Exception: landings and decks less than 30" in height can use 4 x 4 post.

11. Repeal Section 802.11 Roof Tie-Down subsection

Section 802.11.1 in its entirety and provide a new subsection R802.11.1 as follows:

802.11.1 Uplift resistance, by adding the following; All rafters and trusses spaced not more than 24 inches on center shall be attached to their supporting wall assemblies by mechanical fasteners.

12. Chapter 11 Energy Efficiency

Delete:

1. N1102.4.1.2 Testing
2. N1103.3.3 Duct Testing
3. N1103.3.5 Building Cavities
4. N1105 Simulated Performance Alternative
5. N1106 Energy Rating Index; Compliance Alternative
6. Table N1102.1.2 The Insulation Requirement for floors shall not be required.

13. Delete Section P2503.5.2 item 2 in its entirety.

14. Delete Section P2503.6

15. Residential Service Upgrades,

1. All structures used for residential purposes, requiring a service upgrade or modification, shall mandate the following electrical system improvements:
 - a) GFI receptacles in the kitchen(s) and bathroom(s) shall be installed if outlets are in existence at the time of the service upgrade.
 - b) Approved hard-wired, dual powered, interconnected smoke detectors shall be installed and located as per the adopted building code.
 - c) The kitchen shall be provided with a minimum of two (2)

- d) All apparent hazards shall be corrected.
 2. If a fire occurs, or other similar incident that damages any part of the electrical system within a residential structure, in addition to all damaged systems being repaired, it is mandated that all apparent hazards within the structure be corrected. Hard-wired, dual-powered, interconnected smoke detectors shall be installed and located as per the adopted building codes. If the service portion of the electrical system is damaged or upgraded as a result of a fire or other incident, it shall require that all items listed in paragraph E (1) of this section shall be provided.
 3. A total partial upgrade of the electrical system may be required, if in the opinion of the Code Official, or his designee, the condition of the existing electrical system constitutes a potential threat to the safety and welfare of current or future occupants.
16. Amend Section E3902, Ground-fault and arc-fault circuit-interrupter protection, subsection E3902.2, Garage and accessory building receptacles, as follows:
1. E3902.2 Garage and accessory building receptacles. All 125-bolt, single phase, 15-or20- ampere receptacles installed in garages and grade-level portions of unfinished accessory buildings used for storage or work areas shall have ground fault circuit-interrupter protection for personnel.
Exception: The receptacle adjacent to and used solely for the purpose of providing power for the garage door opener does not have be GFCI protected.
 - a) Amend Section E3902, Ground-fault and arc fault circuit-interrupter protection, as follows:
 - i. E3902.12 Arc-fault circuit-interrupter protection. All branch circuits that supply 120+volt, single-phase, 15-and 20-ampere outlets be protected by a combination-type arc-fault circuit interrupter installed to provide protection of the branch circuit.
 - b) Repeal Section E4002, Receptacles, subsection E4002.14, Tamper-resistant receptacles, in its entirety.

III) International Mechanical Code

- a) The International Mechanical Code/2018, including Appendix A, as published by the International Code Council, adopted by section 103-1 is hereby amended by substituting the following sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Mechanical Code/2018, or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:
 1. Section 101.1 Insert: City of Nixa
 2. Delete Section 109 in its entirety.

IV) International Plumbing Code

- a) The International Plumbing Code/2018, including Appendix E, adopted by section 103-1 is hereby amended by substituting the following sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Plumbing Code/2018, or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:
 1. Section 101.1 Insert: "City of Nixa"
 2. Delete Section 109 in its entirety.
 3. Section 305.4.1 Insert: "24", "24"
 4. Delete "Exception; 2. Of Subsection 403.2, separate facilities," in its entirety, and add the following: "2. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 49 or less and which do not serve food or beverages to be consumed within the structure or tenant space."

In addition, add the following: "4. Separate facilities shall not be required in structures or tenant spaces that serve food or beverages to be consumed with the structure or tenant space with a total occupant load, including both employees and customers of 15 or less.

5. In Section 410.3 Substitution, add the following: "Exception: In all use groups except Use Group A, where the occupant load is less than 49, a two-or five-gallon water dispenser or water cooler may be substituted for the required drinking fountain."
6. Amend Section 715, "Backwater Valves", Subsection 715.1, "Sewage Backflow," by adding the following sentences to the end of that paragraph: "All newly constructed one-and two-family dwellings shall have a backwater valve installed to prevent the possibility of sewage backup into the residence. Backwater valves shall be installed with access."
7. Section 903.1 Insert: "12"

V) International Property Maintenance Code

- a) The International Property Maintenance Code/2018, as published by the International Code Council, adopted by section 103-1 is hereby amended by substituting the following sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Property Maintenance Code/2018, or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:
 1. Section 101.1 Insert: "The City of Nixa"

VI) National Fire Protection (NFPA) 70 and the National Electric Code (NEC).

- a) National Fire Protection (NFPA 70 and National Electric Code (NEC)/2017 as adopted by Section 103-1 shall have no amendments, alterations or changes.

VII) International Energy Conservation Code

- a) The International Energy Conservation Code/2018, as published by the International Code Council, as adopted by section 103-1 is hereby amended by substituting the following sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Energy Code/2018, or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:

1. Section 101.1 Insert: "The City of Nixa"
2. Delete Section C109.

VIII) International Fuel Gas Code

- i. The International Fuel Gas Code/2018, including Appendices A, B, C, and D, as published by the International Code Council, as adopted by Section 103-1 is hereby amended by substituting the following Sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Fuel Gas Code/2018 or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:

1. Section 101.1 Insert: "City of Nixa"
2. Delete Section 109 in its entirety.

IX) International Fire Code

- a) The International Fire Code/2018, including Appendices B, C, D, E, F, and G, as published by the International Code Council, as adopted by Section 103-1 is hereby amended by substituting the following Sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International Fire Code/2018, or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:

1. Section 101.1 Insert: "City of Nixa."
2. Delete in its entirety "Section 108 Board of Appeals."

X) Existing Buildings Code

- a) The International Existing Building Code/2018, including Appendices A and B, as published by the International Code Council, adopted by Section 103-1 is hereby amended by substituting the following Sections or portions of Sections for those Sections or portions of Sections with corresponding numbers of the International

Existing Building Code/2018, or where there is no corresponding Section in the code, the following Sections shall be enacted as additions, changes or alterations to the code:

1. Section 101.1 Insert: "City of Nixa."
2. Section 1106 is amended to include the following addition: 1106.1.3 Group E occupancy campuses: Where a Group E Occupancy building having an aggregate occupant load of 50 or more is added to an existing Group E occupancy campus, a storm shelter complying with ICC 500 and capable of housing the total occupant load of all the Group E Occupancy buildings on the campus shall be installed when the additional building increases the floor area of the classrooms, vocational rooms, and offices on the campus by more than 25%.

(Ord. No. 2018, § I, 10-22-2018; Ord. No. 2093, § I, 11-25-2019; Ord. No. 2133, § 1, 8-20-2020

Sec. 103-3. Inspection and enforcement.

(a) The city building department, responsible for inspections, shall have the authority to make inspections and enforce the ICC International Codes and the National Electrical Code as adopted for the city.

(b) Any appeals, variances, or interpretations must be in accordance with article III of chapter 101 of this Code.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-4. Finished floor elevation verification policy.

(a) To ensure proper placement of a structure, all lots with a minimum finished floor elevations identified on the recorded final plat shall require the submittal of a finished floor elevation certificate upon completion of the basement finished floor and/or garage finished floor and prior to framing of the structure.

(b) A surveyor registered in the state shall conduct the elevation certification. Results of the survey shall be submitted, stamped and sealed to the development department, verifying compliance with the finished floor elevation for the lot on the city's certification form.

(Ord. No. 2018, § I, 10-22-2018)

Secs. 103-5—103-26. Reserved.

ARTICLE II. HOUSING OCCUPANCY CODE INSPECTIONS AND CERTIFICATES***Sec. 103-27. Purpose.**

The general purpose of this article is to protect the public health, safety, comfort, morals and the general welfare of the people of the city. These general objectives include, among others, the following specific purposes:

- (1) To protect the character and stability of residential areas within the city.
- (2) To provide minimum standards for cooking, heating and sanitary equipment necessary to the health and safety of occupants of buildings.
- (3) To provide facilities for light and ventilation, necessary to health and safety.
- (4) To prevent additions or alterations to existing dwellings that would be injurious to the life, health, safety or general welfare of the occupants of such dwellings or neighboring properties.
- (5) To prevent the overcrowding of dwellings by providing minimum space standards per occupant of each dwelling unit.
- (6) To provide minimum standards for the maintenance of existing residential buildings and to prohibit the spread of slums and blight.
- (7) To preserve the taxable value of land and buildings throughout the city.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-28. Conflicting provisions.

(a) This article establishes minimum standards for dwelling units and accessory buildings and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings except such as are in conflict with the provisions of this article.

(b) Any inconsistency or conflict between the provisions of this article or any existing ordinance shall not repeal such provision or ordinance; but the provisions of this article shall be cumulative thereto.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-29. Conformance to International Property Maintenance Code required.

Every building or its premises used in whole or in part as a home or residence or as an accessory structure thereof, of a single-family or person, and every building used in whole or in part as a home or residence of two or more persons or families, living in separate apartments, shall conform to the requirements of the International Property Maintenance

***Editor's note**—Ord. No. 2018, § I, adopted Oct. 22, 2018, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 103-27—103-43, pertained to similar subject matter, and derived from the Prior Code, §§ 5-11—5-27; Ord. No. 963, 8-1996.

Code, as adopted and amended by the city, irrespective of the class to which such buildings may otherwise belong, and irrespective of when such buildings may have been constructed, altered or repaired.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-30. Inspection authorized; access.

The city administrator or his designate is authorized and directed to make inspections to determine whether dwellings, dwelling units, rooming units, accessory structures and premises located within the city conform to the requirements of this article. For the purpose of making such inspections, the city administrator or his designate is authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units, accessory structures and premises. The owner or occupant of every dwelling unit, rooming unit, accessory structure and its premises shall give the city administrator or his designate free access thereto at all reasonable times for the purpose of such inspection, examination and survey.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-31. Occupancy permit required; fees.

(a) It shall be unlawful for any person to occupy or for any owner or agent thereof to permit the occupation of any building, or addition thereto, or part thereof, for any purpose until a certificate of occupancy has been issued by the city administrator or his designate. Every owner, agent or manager of any building, or addition thereto, shall inform the city administrator or his designate whenever any portion of such building or any dwelling unit therein becomes vacant and request an inspection thereof under the provisions of this article. The certificate of occupancy so issued shall state that the occupancy complies with all the provisions of this article. This section shall not apply to any occupancy in existence on March 1, 1994, until vacancy in rental unit occurs. If a rental unit is occupied before a "certificate of occupancy" is issued, an inspection fee in the amount established by section 2-151 of this Code shall be required. If a landlord allows more than one violation, a summons to appear in municipal court will be issued.

(b) The occupancy permit will be issued for each dwelling unit or building or portion thereof, occupied. It shall be unlawful for any person to knowingly make any false statement in his application for an occupancy permit as to the names, ages, relationship or number of occupants who will occupy the premises.

(Ord. No. 2018, § I, 10-22-2018; Ord. No. 2331, § 22, 10-23-2023)

Sec. 103-32. Inspections and certificates of compliance.

If the inspected premises meet city standards, a certificate of compliance shall be issued. The certificate of occupancy shall be valid as long as the unit is occupied by current tenant. The tenant must bring the certificate of occupancy to sign up for utilities. Two copies of the

occupancy and the inspection list are left at the site by the inspector. Utilities will not be transferred into tenant's name unless the certificate of occupancy accompanies the request. (Ord. No. 2018, § I, 10-22-2018)

Sec. 103-33. Inspection fees.

- (a) A fee in the amount established in section 2-151 of this Code shall be paid to the city and shall accompany each request for inspection of a single-family dwelling. For the purpose of this section, a dwelling unit occupied as a condominium shall be considered a single-family dwelling.
- (b) Except as otherwise provided, a fee in the amount established in section 2-151 of this Code shall be paid to the city and shall accompany each request for inspection of a dwelling unit in a multifamily dwelling. A penalty fee in the amount established by section 2-151 of this Code shall be charged for each rescheduled inspection if an appointment is scheduled and the inspector is unable to get into the unit as scheduled by the applicant. This fee will be charged even if it is the second or third inspection of the year, which doesn't require payment. (See section 103-31(a) for fee if property is occupied before the certificate of occupancy is issued.)

(Ord. No. 2018, § I, 10-22-2018; Ord. No. 2331, § 23, 10-23-2023)

Sec. 103-34. Procedures for apartment complexes with more than 30 units.

(a) To facilitate the scheduling and conduct of inspections in compliance with this article, multiple-family complexes with more than 30 rental units under single administrative control may arrange for individual inspections without having to pay for them at the time they are scheduled. These complexes may be billed monthly for inspections conducted during the preceding 30-day period (month). Inspections remaining unpaid for 60 days following the billing will be determined to be delinquent and will be subject to a 1½ percent per month late fee for each month or fraction thereof that the billing remains unpaid. Complexes which are delinquent in their payments for three consecutive billing periods may, at the discretion of the city administrator or his designate, lose the privilege of monthly billing.

(b) To aid new residents and to facilitate compliance with this article, multiple-family complexes with more than 100 rental units may collect the occupancy permit fees on behalf of their new tenants. Such fees will be paid to the city no less often than once per month.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-35. Notice of violation.

Whenever the city administrator or his designate determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, he shall give notice of such alleged violation to the person responsible therefor which shall:

- (1) Be in writing.
- (2) Contain a statement of the reason why it is being issued.

- (3) Allow a reasonable time for the performance of any act it requires (30 days' maximum).
- (4) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.
- (5) Be served upon the owner or his agent, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or on any such occupant, if a copy thereof is:
 - a. Served upon him personally;
 - b. Sent by certified mail to his last known address; or
 - c. Posted in a conspicuous place in or about the dwelling affected by the notice.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-36. Designation of dwellings unfit for habitation.

The following may be designated as dwellings or dwelling units unfit for human habitation:

- (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or the public;
- (2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public;
- (3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public; or
- (4) One which does not substantially conform to this article.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-37. Placarding.

Any dwelling or dwelling unit which shall be found to have any of the defects set out in this article shall be declared unfit for human habitation and shall be so designated and placarded by the city administrator or his designate when the person responsible has failed to correct the condition set forth in a notice issued.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-38. Removal of placards.

No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as may be provided.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-39. Right of appeal.

Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the board of adjustment under the procedure set forth in article III of chapter 101 of this Code.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-40. Vacation of building.

(a) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the city administrator or his designate, shall be vacated within a reasonable time as ordered by the city administrator or his designate.

(b) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the city administrator or his designate. The city administrator or his designate shall remove such placard whenever the defects upon which the condemnation and placarding action were based have been eliminated.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-41. Vacated structures to be made secure.

If a structure or part thereof is vacant or unfit for human habitation, occupancy, or use and is not in danger of structural collapse, the city administrator or his designate may post a placard of condemnation on the premises and may order the structure closed up with plywood so as to prevent that structure from becoming a public nuisance. Upon failure of the owner to close up the condemned structure within the time specified in the order, the city administrator or his designate shall cause those premises to be closed up with plywood through any available public agency or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the condemned structure is located and shall thereafter become a lien upon that real estate. In addition, any structure, which is ordered to be closed up, shall have at least one No-Trespassing sign posted in a prominent place on each of its outside walls. All closing up with plywood shall be done in accordance with regulations for such work kept on file in the office of the city administrator or his designate.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-42. Remedy of defects.

(a) The owner of any building shall have 30 days from the issuance of the notice to remedy the condition therein specified; provided, however, that the city administrator or his designate may, at his discretion, extend the time for compliance with any such notice; and provided further, that no owner shall be held responsible for any condition that is not specifically described in such notice.

(b) The failure of any owner to comply with any order of the city administrator or his designate contained in the notice prescribed by section 103-35 within the time specified shall make such owner subject to the penalties provided for such offense.

(Ord. No. 2018, § I, 10-22-2018)

Sec. 103-43. Transfer of ownership.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit upon whom a notice of violation or compliance order has been served to sell, transfer, mortgage, lease or otherwise dispose of the dwelling to another until the provisions of the notice of violation or compliance order have been complied with, or until such owner shall first furnish to the grantee, lessee or mortgagee a true copy of any notice of violation or compliance order issued by the city administrator or his designate. A transferee, lessee, or mortgagee who has received actual or constructive notice of the existence of a notice of violation or compliance order shall be bound by such notice as of the date of the transfer without further service or notice upon him.

(b) The owner to whom a dwelling or dwelling unit has been transferred may consent to make repairs which have been required by a notice of violation from the city administrator or his designate, by signing an agreement with the city agreeing to make the repairs required by the violation notice on or before a date as determined by the city administrator or his designate. Upon receipt of such agreement, the city administrator or his designate may issue an occupancy permit to be held by the city until such time as the repairs are completed by the new owner of the dwelling or dwelling unit. The form of this agreement shall contain the following:

- (1) Identity of the owner.
- (2) Description and location of the dwelling or dwelling unit.
- (3) List of all required repairs.
- (4) The date upon which repairs will be completed.
- (5) Executed and notarized signatures by both the new owner and the building commissioner.

(Ord. No. 2018, § I, 10-22-2018)

Secs. 103-44—103-74. Reserved.

ARTICLE III. MANUFACTURED HOUSING USED AS DWELLINGS*

DIVISION 1. GENERALLY

Sec. 103-75. 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:

Accessory building means any building or structure, or portion thereto, located on the same property as a manufactured home which does not qualify as a manufactured home as defined herein.

Building service equipment refers to the plumbing, mechanical and electrical equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating ventilation, cooling, fire protection and facilities essential for the habitable occupancy of a manufactured home or accessory building or structure for its designated use and occupancy.

Manufactured home means a structure transportable in one or more sections which, in the traveling mode, is eight body feet (2,438 body mm) or more in width or 40 body feet (12,192 body mm) or more in length or, when erected on site, is 320 or more square feet (30 m^2). and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (HUD) and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture, is required. For the purpose of this article, a mobile home shall be considered a manufactured home.

Manufactured home installation means construction which is required for the installation of a manufactured home, including the construction of the foundation system, required structural connections thereto and the installation of on-site water, gas, electrical and sewer systems and connections thereto which are necessary for the normal operation of the manufactured home.

Manufactured home standards means the Manufactured Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development.

***State law reference**—Manufactured homes, RSMo ch. 700.

Privately owned (nonrental) lot means a parcel of real estate outside of a manufactured home rental community (park) where the land and the manufactured home to be installed thereon are held in common ownership.

(Prior Code, § 5-102; Ord. No. 1225, 4-2003)

Sec. 103-76. Scope.

(a) This article shall be applicable only to a manufactured home used as a single dwelling unit installed on privately owned (nonrental) and rental lots and shall apply to the following:

- (1) Construction, alteration and repair of any foundation system which is necessary to provide for the installation of a manufactured home unit.
- (2) Construction, installation, addition, alteration, repair or maintenance of the building service equipment which is necessary for connecting manufactured homes to water, fuel, or power supplies and sewage systems.
- (3) Alterations, additions or repairs to existing manufactured homes. The construction, alteration, moving, demolition, repair and use of accessory buildings and structures and their building service equipment shall comply with the requirements of the codes adopted by the city.

(b) This article shall not be applicable to the design and construction of manufactured homes and shall not be deemed to authorize either modifications or additions to manufactured homes where otherwise prohibited.

(c) Exception. In addition to this article, new and replacement manufactured homes to be located in flood hazard areas as established in Table R301.2 of the International Residential Code shall meet the applicable requirements of section R327 of the International Residential Code.

(Prior Code, § 5-100; Ord. No. 1225, 4-2003)

Sec. 103-77. Application to existing manufactured homes and building service equipment.

Manufactured homes and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of this article for new facilities, except as specifically provided in this section.

- (1) *Additions, alterations or repairs.* Additions made to a manufactured home shall conform to one of the following:
 - a. Be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401, et seq.).
 - b. Be designed and constructed to conform with the applicable provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401, et seq.).

- c. Be designed and constructed in conformance with the code adopted by the city.
 - 1. Additions shall be structurally separated from the manufactured home.
 - 2. Exception. A structural separation need not be provided when structural calculations are provided to justify the omission of such separation.
 - 3. Alterations or repairs may be made to any manufactured home or to its building service equipment without requiring the existing manufactured home or its building service equipment to comply with all the requirements of this article, provided the alteration or repair conforms to that required for new construction, and provided further that no hazard to life, health or safety will be created by such additions, alterations, or repairs.
 - 4. Alterations or repairs to an existing manufactured home which are nonstructural and do not adversely affect any structural member or any part of the building or structure having required fire protection may be made with materials equivalent to those of which the manufactured home structure is constructed, subject to approval by the building official.
 - 5. Exception. The installation or replacement of glass shall be required for new installations.
 - 6. Minor additions, alterations and repairs to existing building service equipment installations may be made in accordance with the codes in effect at the time the original installation was made subject to approval of the building official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, insanitary or overloaded.
- (2) *Existing installations.* Building service equipment lawfully in existence at the time of the adoption of the applicable codes may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property has been created by such building service equipment.
- (3) *Existing occupancy.*
 - a. Manufactured homes which are in existence at the time of the adoption of the ordinance from which this article is derived may have their existing use or occupancy continued if such use or occupancy was legal at the time of the adoption of the ordinance from which this article is derived, provided such continued use is not dangerous to life, health and safety.
 - b. The use or occupancy of any existing manufactured home shall not be changed unless evidence satisfactory to the building official is provided to show compliance with all applicable provisions of the codes adopted by the city. Upon any change in use or occupancy, the manufactured home shall cease to be classified as such within the intent of this article.

- (4) *Maintenance.* All manufactured homes and their building service equipment, existing and new, and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by applicable codes or by the manufactured home standards shall be maintained in conformance with the code or standard under which it was installed. The owner or the owner's designated agent shall be responsible for the maintenance of manufactured homes, accessory buildings, structures and their building service equipment. To determine compliance with this subsection, the building official may cause any manufactured home, accessory building or structure to be reinspected.
- (5) *Relocation.* Manufactured homes which are to be relocated within the city shall comply with this article.

(Prior Code, § 5-101; Ord. No. 1225, 4-2003)

Sec. 103-78. Utility service.

Utility service shall not be provided to any building service equipment which is regulated by this article or other applicable codes and for which a manufactured home installation permit is required by this article until approved by the building official.

(Prior Code, § 5-108; Ord. No. 1225, 4-2003)

Sec. 103-79. Occupancy classification.

- (a) A manufactured home shall be limited in use to use as a single dwelling unit.
- (b) Accessory buildings shall be classified as to occupancy by the building official as set forth in this Code.

(Prior Code, § 5-109; Ord. No. 1225, 4-2003)

Sec. 103-80. Location on property.

Manufactured homes and accessory buildings shall be located on the property in accordance with applicable codes and ordinances of the city.

(Prior Code, § 5-110; Ord. No. 1225, 4-2003)

Sec. 103-81. Design.

- (a) A manufactured home shall be installed on a foundation system which is designed and constructed to sustain within the stress limitations specified in this Code and all loads specified in this Code.
- (b) *Exception.* When specifically authorized by the building official, foundation and anchorage systems which are constructed in accordance with the methods specified in division 3 of this article or in the United States Department of Housing and Urban Development Handbook, Permanent Foundations for Manufactured Housing, 1984 edition, draft, shall be deemed to meet the requirements of this article.

- (c) The installation instructions as provided by the manufacturer of the manufactured home shall be used to determine permissible points of support for vertical loads and points of attachment for anchorage systems used to resist horizontal and uplift forces.
- (d) Any system or method of construction to be used shall admit to a rational analysis in accordance with well-established principles of mechanics.
- (Prior Code, § 5-111; Ord. No. 1225, 4-2003)

Sec. 103-82. Foundation systems.

Foundation systems designed and constructed in accordance with this section may be considered as a permanent installation.

- (1) *Soil classification.*
- a. The classification of the soil at each manufactured home site shall be determined when required by the building official. The building official may require that the determination be made by an engineer or architect licensed by the state to conduct soil investigations.
 - b. The classification shall be based on observation and any necessary tests of the materials disclosed by borings or excavations made in appropriate locations. Additional studies may be necessary to evaluate soil strength, the effect of moisture variation on soil-bearing capacity, compressibility and expansiveness.
 - c. When required by the building official, the soil classification design bearing capacity and lateral pressure shall be shown on the plans.
- (2) *Footings and foundations.*
- a. Footings and foundations, unless otherwise specifically provided, shall be constructed of materials specified by this Code for the intended use and in all cases shall extend below the frost line. Footings of concrete and masonry shall be of solid material. Foundations supporting untreated wood shall extend at least eight inches (203 mm) above the adjacent finish grade. Footings shall have a minimum depth below finished grade of 12 inches (305 mm) unless a greater depth is recommended by a foundation investigation.
 - b. Piers and bearing walls shall be supported on masonry or concrete foundations or piles, or other approved foundation systems which shall be of sufficient capacity to support all loads.
- (3) *Foundation design.* When a design is provided, the foundation system shall be designed in accordance with the applicable structural provisions of this Code and shall be designed to minimize differential settlement. Where a design is not provided, the minimum foundation requirements shall be as set forth in this Code.
- (4) *Drainage.* Provisions shall be made for the control and drainage of surface water away from the manufactured home.

(5) *Under-floor clearances; ventilation and access.*

- a. A minimum clearance of 12 inches (305 mm) shall be maintained beneath the lowest member of the floor support framing system. Clearances from the bottom of wood floor joists or perimeter joists shall be as specified in this Code.
- b. Under-floor spaces shall be ventilated with openings as specified in this Code. If combustion air for one or more heat-producing appliances is taken from within the under-floor spaces, ventilation shall be adequate for proper appliance operation.
- c. Under-floor access openings shall be provided. Such openings shall be not less than 18 inches (457 mm) in any dimension and not less than three square feet (0.279m^2) in area and shall be located so that any water supply and sewer drain connections located under the manufactured home are accessible.

(Prior Code, § 5-112; Ord. No. 1225, 4-2003)

Sec. 103-83. Skirting and perimeter enclosures.

(a) Skirting and permanent perimeter enclosures shall be installed only where specifically required by other laws or ordinances. Skirting, when installed, shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by this Code for regular foundation construction.

(b) Skirting shall be installed in accordance with the skirting manufacturer's installation instructions. Skirting shall be adequately secured to ensure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave.

(c) Where retaining walls are used as a permanent perimeter enclosure, they shall resist the lateral displacements of soil or other materials and shall conform to this Code as specified for foundation walls. Retaining walls and foundation walls shall be constructed of approved treated wood, concrete, masonry or other approved materials or combination of materials as for foundations as specified in this Code. Siding materials shall extend below the top of the exterior of the retaining or foundation wall or the joint between siding and enclosure wall shall be flashed in accordance with this Code.

(Prior Code, § 5-113; Ord. No. 1225, 4-2003)

Sec. 103-84. Structural additions.

(a) Accessory buildings shall not be structurally supported by or attached to a manufactured home unless engineering calculations are submitted to substantiate any proposed structural connection.

(b) Exception. The building official may waive the submission of engineering calculations if it is found that the nature of the work applied for is such that engineering calculations are not necessary to show conformance to this article.

(Prior Code, § 5-114; Ord. No. 1225, 4-2003)

Sec. 103-85. Building service equipment.

The installation, alteration, repair, replacement, addition to or maintenance of the building service equipment within the manufactured home shall conform to regulations set forth in the manufactured home standards. Such work which is located outside the manufactured home shall comply with the applicable codes adopted by the city.

(Prior Code, § 5-115; Ord. No. 1225, 4-2003)

Sec. 103-86. Exits.

(a) Exterior stairways, landings, decks and ramps which provide egress to the public way shall comply with applicable provisions of the 2006 International Residential Code.

(b) Every accessory building or portion thereof shall be provided with exits as required by this Code.

(Prior Code, § 5-116; Ord. No. 1225, 4-2003)

Sec. 103-87. Occupancy, fire safety and energy conservation standards.

Alterations made to a manufactured home subsequent to its initial installation shall conform to the occupancy, fire-safety and energy conservation requirements set forth in the manufactured home standards.

(Prior Code, § 5-117; Ord. No. 1225, 4-2003)

Secs. 103-88—103-117. Reserved.**DIVISION 2. PERMIT****Sec. 103-118. Required.**

A manufactured home shall not be installed on a foundation system reinstalled or altered without first obtaining a permit from the building official. A separate permit shall be required for each manufactured home installation. When approved by the building official, such permit may include accessory buildings and structures and their building service equipment when the accessory buildings or structures will be constructed in conjunction with the manufactured home installation.

- (1) *Additions, alterations and repairs to a manufactured home.* A permit shall be obtained to alter, remodel, repair or add accessory buildings or structures to a manufactured home subsequent to its initial installation. Permit issuance and fees therefor shall be in conformance with the codes applicable to the type of work involved. An addition made to a manufactured home as defined in this article shall comply with this article.
- (2) *Accessory buildings.* Except as provided in subsection (3) of this section, permits shall be required for all accessory buildings and structures and their building service equipment. Permit issuance and fees therefor shall be in conformance with the codes applicable to the types of work involved.

- (3) *Exempted work.* A permit shall not be required for the types of work specifically exempted by the applicable codes. Exemption from the permit requirements of any of said codes shall not be deemed to grant authorization for any work to be done in violation of the provisions of said codes or any other laws or ordinances of the city.

(Prior Code, § 5-103; Ord. No. 1225, 4-2003)

Sec. 103-119. Application.

(a) To obtain a manufactured home installation permit, the applicant shall first file an application in writing on a form furnished by the building official for that purpose. At the option of the building official, every such application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made.
- (2) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
- (3) Indicate the use or occupancy for which the proposed work is intended.
- (4) Be accompanied by plans, diagrams, computations and specifications and other data as required in subsection (b) of this section.
- (5) Be accompanied by a soil investigation when required by section 103-82(1).
- (6) State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.
- (7) Be signed by permittee, or permittee's authorized agent, who may be required to submit evidence to indicate such authority.
- (8) Give such other data and information as may be required by the building official.

(b) Plans and specifications.

- (1) Plans, engineering calculations, diagrams and other data as required by the building official shall be submitted in not less than two sets with each application for a permit. The building official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.
- (2) Where no unusual site conditions exist, the building official may accept approved standard foundation plans and details in conjunction with the manufacturer's approved installation instructions without requiring the submittal of engineering calculation.
- (3) Plans and specifications shall be drawn to scale on substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed

and shown in detail that it will conform to the provisions of this article and all relevant laws, ordinances, rules and regulations. The building official shall determine what information is required on plans and specifications to ensure compliance.

(Prior Code, § 5-104; Ord. No. 1225, 4-2003)

Sec. 103-120. Permit issuance.

(a) *Review.* The application, plans and specifications and other data filed by an applicant for permit shall be reviewed by the building official. Such plans may be reviewed by other departments of the city to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this article and other data filed therewith conform to the requirement of this article and other pertinent codes, laws and ordinances, and that the fees specified in section 103-121 have been paid, the building official shall issue a permit therefor to the applicant.

(b) *Approval and authorization.* When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications approved. Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

(c) *Retention of plans.* One set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress. One set of approved plans, specifications and computations shall be retained by the building official until final approval of the work.

(d) *Validity of permit.*

(1) The issuance of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this article or other pertinent codes or any other ordinances of the city. No permit presuming to give authority to violate or cancel the provisions of this article shall be valid.

(2) The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this article or of any other ordinances of the city.

(e) *Expiration.*

(1) Every permit issued by the building official under this article shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall

be first obtained, and the fee therefor shall be one-half the amount required for a new permit for such work; provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

- (2) Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by a permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

(f) *Suspension or revocation.* The building official may, in writing, suspend or revoke a permit issued under this article whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of this article. (Prior Code, § 5-1005; Ord. No. 1225, 4-2003)

Sec. 103-121. Fees.

- (a) *Permit fees.*

- (1) The fees for each manufactured home installation permit shall comply with those regulating single-family residential new construction.
- (2) When permit fees are to be based on the value or valuation of the work to be performed, the determination of value or valuation under this article shall be made by the building official. The value to be used shall be the total value of all work required for the manufactured home installation plus the total value of all work required for the construction of accessory buildings and structures for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air-conditioning, elevators, fire-extinguishing systems and any other permanent equipment which is a part of the accessory building or structure. The value of the manufactured home itself shall not be included.

(b) *Plan review fees.* When a plan or other data are required to be submitted by section 103-120(a), a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be the same fee established for single-family residence plan reviews as established in section 2-151 of this Code.

(c) *Other provisions.* Expiration of plan review. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances

beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(Prior Code, § 5-106; Ord. No. 1225, 4-2003; Ord. No. 2331, § 24, 10-23-2023)

Sec. 103-122. Inspections.

(a) All construction work for which a manufactured home installation permit is required shall be subject to inspection by the building official, and certain types of construction shall have continuous inspection by special inspectors as specified in subsection (e)(6) of this section. A survey of the lot may be required by the building official to verify that the structure is located in accordance with the approved plans. It shall be the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the building official nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(b) It shall be the duty of the person doing the work authorized by a manufactured home installation permit to notify the building official that such work is ready for inspection. The building official may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing or by telephone at the option of the building official. It shall be the duty of the person requesting any inspections required either by this article or other applicable codes to provide access to and means for proper inspection of such work.

(c) Work requiring a manufactured home installation permit shall not be commenced until the permit holder or the permit holder's agent shall have posted an inspection record card in a conspicuous place on the premises and in such position as to allow the building official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained in such position by the permit holder until final approval has been issued by the building official.

(d) Work shall not be done on any part of the manufactured home installation beyond the point indicated in each successive inspection without first obtaining the approval of the building official. Such approval shall be given only after an inspection has been made of each successive step in the construction as indicated by each of the inspections required in subsection (a) of this section. There shall be a final inspection and approval of the manufactured home installation, including connections to its building service equipment when completed and ready for occupancy or use.

(e) Required inspections.

(1) Structural inspections for the manufactured home installation. Reinforcing steel or structural framework of any part of any manufactured home foundation system shall not be covered or concealed without first obtaining the approval of the building official. The building official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and shall either approve that

portion of the construction as completed or shall notify the permit holder or the permit holder's agent wherein the same fails to comply with this article or other applicable codes:

- a. Foundation inspection: to be made after excavations for footings are completed and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except where concrete from a central mixing plant (commonly termed "transit mixed") is to be used, the concrete materials need not be on the job. Where the foundation is to be constructed of approved treated wood, additional framing inspections as required by the building official may be required.
 - b. Concrete slab or under-floor inspection: to be made after all in-slab or underfloor building service equipment, conduit, piping accessories and other ancillary equipment items are in place but before any concrete is poured or the manufactured home is installed.
 - c. Anchorage inspection: to be made after the manufactured home has been installed and permanently anchored.
- (2) Structural inspections for accessory building and structures. Inspections for accessory buildings and structures shall be made as set forth in this Code.
 - (3) Building service equipment inspections. All building service equipment which is required as a part of a manufactured home installation, including accessory buildings and structures authorized by the same permit, shall be inspected by the building official. Building service equipment shall be inspected and tested as required by the applicable codes. Such inspections and testing shall be limited to site construction and shall not include building service equipment which is a part of the manufactured home itself. No portion of any building service equipment intended to be concealed by any permanent portion of the construction shall be concealed until inspected and approved. Building service equipment shall not be connected to the water, fuel or power supply or sewer system until authorized by the building official.
 - (4) Final inspection. When finish grading and the manufactured home installation, including the installation of all required building service equipment, is completed and the manufactured home is ready for occupancy, a final inspection shall be made.
 - (5) Other inspection. In addition to the called inspections specified above, the building official may make or require other inspections of any construction work to ascertain compliance with this article or other codes and laws which are enforced by the code enforcement agency.
 - (6) Special inspections. In addition to the inspections required above, the building official may require the owner to employ a special inspector during construction of specific types of work as described in this Code.

(Prior Code, § 5-107; Ord. No. 1225, 4-2003)

Secs. 103-123—103-142. Reserved.**DIVISION 3. FOUNDATIONS****Sec. 103-143. Special requirements for foundation systems.**

This division is applicable only when specifically authorized by the building official.
(Prior Code, § 5-118; Ord. No. 1225, 4-2003)

Sec. 103-144. Footings and foundations.

The capacity of individual load-bearing piers and their footings shall be sufficient to sustain all loads specified in this Code within the stress limitations specified in this Code. Footings, unless otherwise approved by the building official, shall be placed level on firm, undisturbed soil or in an engineered fill which is free or organic material, such as weeds and grasses. Where used, an engineered fill shall provide a minimum load-bearing capacity of not less than 1,000 psf (48 kN/m^2). Continuous footings shall conform to the requirements of this Code. Section 103-82 shall apply to footings and foundations constructed under the provisions of this section.
(Prior Code, § 5-119; Ord. No. 1225, 4-2003)

Sec. 103-145. Pier construction.

(a) Piers shall be designed and constructed to distribute loads evenly. Multiple-section homes may have concentrated roof loads which will require special consideration. Load-bearing piers may be constructed utilizing one of the methods listed below. Such piers shall be considered to resist only vertical forces acting in a downward direction. They shall not be considered as providing any resistance to horizontal loads induced by wind or earthquake forces.

- (1) A prefabricated load-bearing device that is listed and labeled for the intended use.
- (2) Mortar shall comply with ASTM C 270 Type M, S or N; this may consist of one part Portland cement, one-half part hydrated lime and four parts sand by volume. Lime shall not be used with plastic or waterproof cement.
- (3) A cast-in-place concrete pier with concrete having specified compressive strength at 28 days of 2,500 psi (17 225 kPa).

(b) Alternate materials and methods of construction may be used for piers which have been designed by an engineer or architect licensed by the state to practice as such.

(c) Caps and leveling spacers may be used for leveling of the manufactured home. Spacing of piers shall be as specified in the manufacturer's installation instructions, if available, or by an approved designer.

(Prior Code, § 5-120; Ord. No. 1225, 4-2003)

Sec. 103-146. Height of piers.

Piers constructed as indicated in section 103-145 may have heights as follows:

- (1) Except for corner piers, piers 36 inches (914 mm) or less in height may be constructed of masonry units, placed with cores or cells vertically. Piers shall be installed with their long dimension at right angles to the main frame members they support and shall have a minimum cross-sectional area of 128 square inches ($82\ 560\ mm^2$). Piers shall be capped with minimum 4-inch (102 mm) solid masonry units or equivalent.
- (2) Piers between 36 and 80 inches (914 mm and 2032 mm) in height and all corner piers over 24 inches (610 mm) in height shall be at least 16 inches by 16 inches (406 mm by 406 mm) consisting of interlocking masonry units and shall be fully capped with minimum 4-inch (102 mm) solid masonry units or equivalent.
- (3) Piers over 80 inches (2032 mm) in height may be constructed in accordance with the provisions of subsection (2) of this section, provided the piers shall be filled solid with grout and reinforced with four continuous No. 5 bars. One bar shall be placed in each corner cell of hollow masonry unit piers or in each corner of the grouted space of piers constructed of solid masonry units.
- (4) Cast-in-place concrete piers meeting the same size and height limitations of subsections (1), (2) and (3) of this section may be substituted for piers constructed of masonry units.

(Prior Code, § 5-121; Ord. No. 1225, 4-2003)

Sec. 103-147. Anchorage installations.

- (a) Ground anchors shall be designed and installed to transfer the anchoring loads to the ground.
- (b) The load-carrying portion of the ground anchors shall be installed to the full depth called for by the manufacturer's installation directions and shall extend below the established frost line into undisturbed soil.
- (c) Manufactured ground anchors shall be listed and installed in accordance with the terms of their listing and the anchor manufacturer's instructions and shall include means of attachment of ties meeting the requirements of section 103-148. Ground anchor manufacturer's installation instructions shall include the amount of preload required and load capacity in various types of soil. These instructions shall include tensioning adjustments which may be needed to prevent damage to the manufactured home, particularly damage that can be caused by frost heave. Each ground anchor shall be marked with the manufacturer's identification and listed model identification number which shall be visible after installation. Instructions shall accompany each listed ground anchor specifying the types of soil for which the anchor is suitable under the requirements of this section.

(d) Each approved ground anchor, when installed, shall be capable of resisting an allowable working load at least equal to three, 150 pounds (14 kN) in the direction of the tie, plus a 50 percent overload (4,725 pounds (21 kN) total) without failure. Failure shall be considered to have occurred when the anchor moves more than two inches (51 mm) at a load of 4,725 pounds (21 kN) in the direction of the tie installation. Those ground anchors which are designed to be installed so that loads on the anchor are other than direct withdrawal shall be designed and installed to resist an applied design load of 3,150 pounds (14 kN) at 40 to 50 degrees from vertical or within the angle limitations specified by the home manufacturer without displacing the tie end of the anchor more than four inches (102 mm) horizontally. Anchors designed for connection of multiple ties shall be capable of resisting the combined working load and overload consistent with the intent expressed herein.

(e) When it is proposed to use ground anchors and the building official has reason to believe that the soil characteristics at a given site are such as to render the use of ground anchors is advisable, or when there is doubt regarding the ability of the ground anchors to obtain their listed capacity, the building official may require that a representative field installation be made at the site in question and tested to demonstrate ground anchor capacity. The building official shall approve the test procedures.

(f) Anchoring equipment.

- (1) Anchoring equipment, when installed as a permanent installation, shall be capable of resisting all loads as specified within this article. When the stabilizing system is designed by an engineer or architect licensed by the state to practice as such, alternative designs may be used, providing the anchoring equipment to be used is capable of withstanding a load equal to 1.5 times the calculated load. All anchoring equipment shall be listed and labeled as being capable of meeting the requirements of this article. Anchors as specified in this Code may be attached to the main frame of the manufactured home by an approved $\frac{3}{16}$ -inch-thick (4.76 mm) slotted steel plate anchoring device. Other anchoring devices or methods meeting the requirements of these provisions may be permitted when approved by the building official.
- (2) Anchoring systems shall be so installed as to be permanent. Anchoring equipment shall be so designed to prevent self-disconnection with no hook ends used.
- (3) All anchoring equipment, tension devices and ties shall have a resistance to deterioration as required by this Code.
- (4) Tensioning devices, such as turnbuckles or yoke-type fasteners, shall be ended with clevis or welded eyes.

(Prior Code, § 5-122; Ord. No. 1225, 4-2003)

Sec. 103-148. Ties, materials and installation.

(a) Steel strapping, cable, chain or other approved materials shall be used for ties. All ties shall be fastened to ground anchors and drawn tight with turnbuckles or other adjustable tensioning devices or devices supplied with the ground anchor. Tie materials shall be capable

of resisting an allowable working load of 3,150 pounds (14 kN) with no more than two percent elongation and shall withstand a 50 percent overload (4,750 pounds (21 kN)). Ties shall comply with the weathering requirements of section 103-147(e). Ties shall connect the ground anchor and the main structural frame. Ties shall not connect to steel outrigger beams which fasten to and intersect the main structural frame unless specifically stated in the manufacturer's installation instruction. Connection of cable ties to main frame members shall be five-eighths-inch (15.9 mm) closed-eye bolts affixed to the frame members in an approved manner. Cable ends shall be secured with at least two U-bolt cable clamps with the "U" portion of the clamp installed on the short (dead) end of the cable to ensure strength equal to that required by this section.

(b) Wood floor support systems shall be fixed to perimeter foundation walls in accordance with provisions of this Code. The minimum number of ties required per side shall be sufficient to resist the wind load stated in this Code. Ties shall be evenly spaced as practicable along the length of the manufactured home with the distance from each end of the home and the tie nearest that end not exceeding eight feet (2,438 mm). When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single anchor, provided the anchor used is capable of carrying both loadings. Multisection manufactured homes require diagonal ties only. Diagonal ties shall be installed on the exterior main frame and slope to the exterior at an angle of 40 to 50 degrees from the vertical or within the angle limitations specified by the home manufacturer. Vertical ties which are not continuous over the top of the manufactured home shall be attached to the main frame.

(Prior Code, § 5-123; Ord. No. 1225, 4-2003)

Chapter 104

RESERVED

Chapter 105

ENVIRONMENTAL AND NATURAL RESOURCES*

Article I. In General

Secs. 105-1—105-18. Reserved.

Article II. Landscaping and Open Space Requirements

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- Sec. 105-20. Purpose.
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- Sec. 105-105. Purpose of this article.

***State law references**—Environmental control, RSMo ch. 260; water resources, RSMo 256.200 et seq.; well drillers, RSMo 256.600 et seq.

NIXA CITY CODE

- Sec. 105-106. Certain development activities—Prohibited; director to authorize certain development activities—When.
- Sec. 105-107. Treatment of sinkholes—Generally.
- Sec. 105-108. Sinkhole evaluation—Requirements and contents.
- Sec. 105-109. Flood prevention requirements.
- Sec. 105-110. Water quality protection.
- Sec. 105-111. Sinkhole closure.

ARTICLE I. IN GENERAL

Secs. 105-1—105-18. Reserved.

ARTICLE II. LANDSCAPING AND OPEN SPACE REQUIREMENTS**DIVISION 1. GENERALLY****Sec. 105-19. 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:

Berm means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

Buffer yard means a continuous landscaped area installed along the perimeter of a lot that provides a transition between adjacent rights-of-way of properties.

Cultivated landscape area means planted areas that are frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Deciduous means a plant with foliage that is shed annually.

Drip line means a vertical line extending from the outermost branches of a tree to the ground.

Ecosystem means a characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between species and their environment.

Evergreen means a plant with foliage that persists and remains green yearround.

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

Hedge means a landscape barrier consisting of a continuous, dense planting of shrubs.

Interior parking lot means the square footage of all areas within the parking lot's perimeter.

Irrigation system means a permanent, artificial watering system designed to transport and distribute water to plants.

Mulch means nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Open space shall be interpreted to mean:

- (1) All areas of natural plant communities or area replanted with vegetation after construction, such as revegetated natural areas;
- (2) Tree, shrub, hedge, or ground cover planting areas and lawns; and

(3) Other areas allowed to be counted as open space as per this subpart.

Ornamental tree means a deciduous tree planted primarily for its ornamental value or for screening purposes; it tends to be smaller at maturity than a shade tree.

Parking space. See definition in article II of this chapter for vehicle accommodation area.

Perimeter, landscaping, means a five-foot green space strip which around the entire property, not including where a landscaped street buffer is required.

Plant community means a natural association of plants that are dominated by one or more prominent species, or a characteristic physical attribute.

Plant species, prohibited, means those plant species which are demonstrably detrimental to native plants, native wildlife, ecosystems, or human health, safety and welfare.

Preserve areas means vegetative areas required to be preserved by law.

Screen means a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination of these elements.

Shade tree means usually a deciduous tree (rarely an evergreen) planted primarily for its high crown of foliage or overhead canopy.

Shrub means a self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at its maturity.

Street buffer means a strip of landscaping located adjacent to public right-of-way to help shield view of parked cars to passing motorists, creating a pleasing, harmonious appearance along the roadway.

Tree means any self-supporting woody perennial plant which has a DBH of two inches or more and which normally attains an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oak.

Understory means assemblages of natural low-level woody, herbaceous, and ground cover species which exist in the area below the canopy of the trees.

Vegetation, native, means any plant species with a geographic distribution indigenous to all or part of the state. Plant species that have been introduced by man are not native vegetation.

Viable means, when referring to a tree, shrub, or other type of plant, a plant that, in the judgment of the building official, is capable of sustaining its own life processes, unaided by man, for a reasonable period of time.

Woodlands, existing, means existing trees and shrubs of a number, size, and species that accomplish the same general function as new plantings.

Xeriscape means landscape methods that conserve water through the use of drought-tolerant plants and planting techniques.

(Prior Code, § 23-233)

Sec. 105-20. Purpose.

The purpose of this article is to preserve and promote the health, safety, and general welfare of the public. As a part of the general welfare, the purpose is to promote compatibility among land uses within the community through the preservation and instillation of vegetation, screening, and other landscaping material. These regulations are intended to minimize the harmful or nuisance effects resulting from noise, heat, glare, and accumulation of dust and to provide shade, air purification, oxygen regeneration, groundwater recharge, stormwater runoff retardation, privacy from noise and visual screening of intrusive, objectionable sights and activities.

(Prior Code, § 23-231)

Sec. 105-21. Objectives.

The following objectives are those that this article intends to accomplish:

- (1) Landscaping will enhance the environmental and visual character of the community.
- (2) Green space requirements preserve and stabilize the area's ecological balance by establishing a more healthy environment.
- (3) Landscaping should be an integral part of a development—not an afterthought.
- (4) Landscaping promotes higher quality developments, protects property values and public investment in our community.

(Prior Code, § 23-232)

Sec. 105-22. Applicability.

(a) The provisions of this article shall apply to all new site development, building, or structure hereafter constructed; or areas created or used for vehicular parking.

(b) Whenever an existing use or structure on a lot expands, the development shall be subject to the provisions of this article, provided that the expansion exceeds ten percent of either the existing gross floor area or existing lot area.

(Prior Code, § 23-234)

Sec. 105-23. Conflicts.

If the provisions of this article conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

(Prior Code, § 23-235)

Sec. 105-24. Landscaping plan submittal requirements.

- (a) A landscaping plan shall be submitted as required by the provisions of this article and may be required for a minor site plan as determined by the city planner.
- (b) The landscaping measures and vegetative cover required by this article shall be shown on such plan, (and shall be completed according to specifications) prior to approval of any use permit.
- (c) The following information is required on all site plans in order for staff to review for compliance with this article:
- (1) Location, general type, and quality of existing vegetation, including specimen of trees;
 - (2) Existing vegetation to be saved;
 - (3) Methods and details for protecting existing vegetation during construction and the approved sediment control plan, if available;
 - (4) Locations and labels for all proposed plants;
 - (5) Plant lists or schedules with the botanical and common names, quantity, spacing and size of all proposed landscape material at the time of planting;
 - (6) Location and description of other landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas; and
 - (7) Planting and installation details as necessary to ensure conformance with all required standards.

(Prior Code, § 23-236)

Sec. 105-25. Approval process.

Approval for a building permit, preliminary plat or minor subdivision plat application is processed according to the procedures outlined in section 101-128. Each type of application requires the submittal of the appropriate site plans or construction plans.

(Prior Code, § 23-237)

Sec. 105-26. Buffer yard requirements; street frontage, interior, and perimeter.

- (a) Landscaped buffer yards serve several primary purposes. When a parking lot is located adjacent to a public right-of-way, a strip of landscaping may shield views of parked cars to passing motorists and pedestrians. Perimeter buffer yard requirements define parking areas and prevent two adjacent lots from becoming one large expanse of paving, and it establishes coordination among architecturally diverse buildings, which creates a more pleasing, harmonious appearance from the roadway.

- (b) Each development is required to address all three areas in the landscaping plan as it pertains to the particular site. The landscaping plan must include plantings and green space along:
- (1) Street rights-of-way;
 - (2) Between lots with adjacent parking lots; and
 - (3) Within the interior of the parking areas as the requirements apply to the individual site.
- (c) Table 1.1 illustrates the buffer yard requirements.

TABLE 1.1 PROPERTY PERIMETER BUFFER YARD REQUIREMENTS FOR COMMERCIAL DEVELOPMENT

	<i>Street Buffer Yard Requirements</i>	<i>Perimeter Buffer Yard Requirements</i>	<i>Interior Parking Lot Green Space Requirements</i>
O, NC	10' ^{1, 2}	5'	5 percent of total parking lot area ⁴
GC	12' ^{1, 2}	5'	5 percent of total parking lot area ⁴
HC	15' ^{1, 2}	5'	5 percent of total parking lot area ⁴
M-1, M-2	10' ²	5' ³	3 percent of total parking lot area ⁴
R-3	10' ^{1, 2}	5'	5 percent of total parking lot area ⁴

¹The street buffer yard may be reduced to five feet when a decorative wall three feet in height is used. The decorative wall must be made of brick, stone, or finished concreted to be placed along the street frontage.

² The street buffer yard may be reduced with the use of an earth berm. The earth berm must be at least 2.5 feet higher than the finished elevation of the parking lot. The amount of reduction shall be determined by the city planner based on the design. Maximum reduction allowed is 50 percent of the required street buffer yard.

³ The five-foot perimeter requirement may be waived for storage areas located to the rear of the lot. Acceptance of waiver shall be determined by the city planner based on the following conditions:

- a) M-1 or M-2 zoning must be located adjacent to the storage yards on all sides.
- b) Screening is provided in the form of a wood privacy fence or other suitable material providing 12-month opaque screening of the storage area.
- c) In circumstances where a rear storage area has street frontage (i.e., corner lots or rear street access), the street buffer yard requirements shall apply.

⁴ Parking lots containing 15 or fewer spaces and are less than 35 feet in width are exempt from providing five percent interior green area.

(Prior Code, § 23-238)

Sec. 105-27. Landscaping standards on lot.

All commercial development is required to contain a minimum amount of landscaping in those areas designated as landscaped buffer yards. The requirement is that a certain number of landscape plant units as described in this section be planted per 1,000 square feet of required plantable area. Table 1.2 depicts the landscaping installation.

TABLE 1.2 LANDSCAPE INSTALLATION REQUIREMENTS

	<i>Minimum Number of Plant Units-Buffer Yard</i>	<i>Interior Parking Lot Island Planting Requirements</i>
O, NC	Two shade trees & five shrubs planted per 1,000 sq. ft. of buffer yard area, OFT. ^{1, 2, 3}	One shade tree & four shrubs planted per island
GC	Three shade trees & 6 shrubs planted per 1,000 sq. ft. of buffer yard area, OFT. ^{1, 2, 3}	One shade tree & five shrubs planted per island
HC	Three shade trees & 6 shrubs planted per 1,000 sq. ft. of buffer yard area, OFT. ^{1, 2, 3}	One shade tree & five shrubs planted per island
M-1, M-2	One shade tree & three shrubs per 1,000 sq. ft. of buffer yard area, OFT. ^{1, 2, 3}	One shade tree planted per island.

¹ Grass or ground cover shall be planted on all portions of the green space areas not occupied by landscape material.

² OFT means "or fraction thereof." Unless otherwise specified, trees do not have to be equally spaced, but may be grouped. The formulas above are to be used to determine the minimum amount of landscape treatment to be placed in the buffer yards; placement upon the site shall be determined by the owner and shown on the landscape plan.

³ Plant materials at vehicular entrances should be located so as to maintain safe sight distances.

(Prior Code, § 23-239)

Sec. 105-28. Interior parking lot landscaping requirements.

- (a) The parking lot landscaping requirement serves several purposes:
 - (1) It provides necessary green space to give relief to expansive parking areas with nothing but asphalt;
 - (2) The trees provide shade and serve as windbreaks; and

(3) Planting islands also assist with vehicular circulation.

(b) Any parking lot of 15 or more spaces and/or containing a width greater than 35 feet shall provide interior landscaping. The following provisions are intended to require a percentage of green space for the entire parking lot, excluding the access drive (refer to Table 1.1 for percentage requirements). Diagram (A) below illustrates what areas of the vehicle accommodation area are considered when determining the total area of parking lot. Landscaped areas outside the parking lot may not be used to meet the interior planting requirements.

(c) Planting islands are required as a part of the green space percentage in the interior parking lot area. Diagram (B) below illustrates the parking island dimensions. The dimensions of a parking island must be the same as a parking stall, and must be curbed to protect the landscaping and trees. Planting islands shall be located within the parking lot, such that each island or planter is surrounded on at least three sides by parking lot or an access road to the parking lot. One parking island is required for every 15 parking spaces required on site. If 13 or more spaces remain, a parking island is required. The planting islands must be evenly spaced among the parking spaces in the lot and serve as vehicular circulation whenever possible.

(d) Landscaping treatments are required to be planted in the interior parking lot planting islands. Landscaping vegetation offers shade from the heat and sun. Table 1.2 contains the amount of landscape treatment required per planting island, the balance of the islands shall be planted in grass or other vegetative ground cover. Required trees must be planted within the island leaving a four-foot clearance for car doors to open from the adjacent parking lot.

Diagram (a)

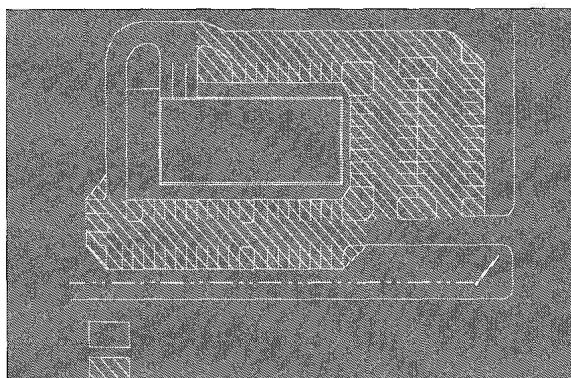
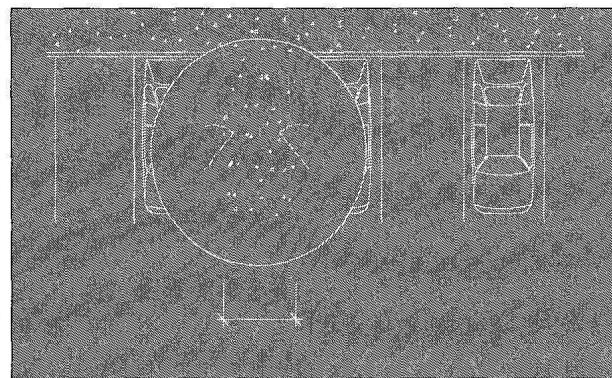


Diagram (b)



(Prior Code, § 23-240)

Sec. 105-29. Minimum tree and shrub planting or preservation requirements.

Standards have been established for installation of all plant materials within the city. These requirements must be followed in order to receive approval of the site work and final occupancy or approval of the development.

(1) Trees shall not be placed where they interfere with site drainage or where they shall require frequent pruning in order to avoid interference with overhead power lines. A minimum of 75 percent of all required trees shall be shade trees.

- (2) Immediately upon planting, trees shall be a minimum of eight feet tall and shall have a minimum caliper (widest width of trunk) of two inches.
- (3) When more than ten trees are to be planted to meet the requirements of this article, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is listed in the table below. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.

Required Species Mix

<i>Required Number of Trees</i>	<i>Minimum Number of Species</i>
11—20	2
21—30	3
31—40	4
41 +	5

- (4) Hedges, where required, shall form a solid continuous visual screen of at least three feet in height immediately upon planting and shall be spaced 18 inches on center. Hedge plantings shall be maintained so as not to exceed a height of six feet.

(Prior Code, § 23-241)

Sec. 105-30. Additional landscape treatment.

(a) All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs, or other appropriate landscape treatment. Gravel or other pavement shall not be considered appropriate landscape treatment.

(b) In order to preserve sight distance, an unobstructed view shall be maintained within these triangular areas:

- (1) At the intersection of two streets, or where a street intersects with an alley: a triangle defined by measuring 30 feet in length along each curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two. The city may require a greater distance in certain higher volume or higher speed traffic intersections.
- (2) At the intersection of a driveway and street: two sides of the triangle defined by measuring 15 feet in length along the edge of the driveway and along the curb or edge of roadway line from their point of intersection, the third side being a diagonal line connecting the first two.

In no instance shall vegetation or ornaments be planted or placed within these areas that exceed 36 inches above grade of the lower roadway.

(c) Except as provided below, all landscape areas at the front line of off-street parking spaces may be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above the finished grade of the parking area. Wheel stops shall be properly anchored and shall be continuously maintained in good condition by the property owner. Wheel stops shall not be placed in locations of anticipated intense pedestrian traffic.

(d) Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Plants used in the landscape design shall be to the greatest extent:

- (1) Appropriate to the conditions in which they are to be planted;
- (2) Have non-invasive growth habits;
- (3) Encourage low maintenance, high-quality design; and
- (4) Be otherwise consistent with the intent of this article.

(e) Replacement requirements for vegetation that is required to be planted or preserved by this article shall be replaced with equivalent vegetation if it is not living within one year of issuance of a certificate of occupancy. Preserved trees for which credit was awarded but which subsequently die, shall be replaced by the requisite number of living trees according to the standards set forth in this article.

(Prior Code, § 23-242)

Sec. 105-31. Enforcement and maintenance.

(a) The city planner or a person designated by him has the authority to enforce the requirements of this article. Final occupancy permits and/or final plats will be held for those who fail to complete landscaping requirements. The property owner will maintain, in good repair, all on-site trees and vegetation.

(b) The city planner or other person designated by him has the authority to deny the issuance of a final occupancy permit until landscaping is installed according to the requirements of this article and to the satisfaction of the site inspector.

(Prior Code, § 23-243)

Sec. 105-32. Alternative methods of compliance.

(a) An application for alternative landscaping schemes is justified only when one or more of the following conditions apply:

- (1) The site involves space limitations or is an unusually shaped parcel.
- (2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
- (3) Due to a change of use of an existing site, the required buffer yard is larger than can be provided.

(4) Safety considerations require a change.

(b) The applicant shall describe in a letter to the development department which of the requirements set forth in the manual will be met with modifications where project conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance. (Prior Code, § 23-244)

Sec. 105-33. List of recommended trees and shrubs.

(a) The following lists indicate plantings that would meet the landscaping requirements of this article. The lists are by no means comprehensive and are intended merely to suggest the types of flora that would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria:

- (1) General suitability for the climate and soil conditions of this area;
- (2) Ease of maintenance;
- (3) Tolerance of city conditions; and
- (4) Availability from area nurseries.

(b) When selecting new plantings for a particular site, a developer should first consider the types of plants that are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

Tree Choices

Fall Colors	Sugar Maple	Bright orange to red
	Red Maple	Bright red
	White Ash	Purple to yellow
	Amur Maple	Bright red
	Norway Maple	Yellow
	Blackgum	Scarlet red
Bloom in Spring	Redbud	Pinkish purple
	F. Dogwood	Pink or white
	Goldenrain Tree	Yellow (summer)
	F. Crabapple	Pink or white
	Hawthorn	White
	Bradford Pear	White
	Cornelian Cherry	Yellow
	Smoke Tree	Puffy blooms, smoke color (summer to fall)
	Purple Leaf Plum	Pink
Winter Color	Foster Holly	
	American Holly	

	Norway Spruce	
	CO. Blue Spruce	

TREE HEIGHT

LARGE	MEDIUM	SMALL
Norway Spruce	Bradford Pear	Redbud
CO. Blue Spruce	Foster Holly	F. Dogwood
Norway Maple	American Holly	F. Crabtree
White Ash	Goldenrain Tree	Hawthorn
Sugar Maple		Amur Maple
Red Maple		Burning Bush

TREE SPACING

PLANT SIZE	FROM CORNERS	FROM WALLS	DISTANCE FOR MASS PLANTING
Small	8 feet	12 feet	6—12 feet
Medium	12 feet	16 feet	16—30 feet
Large	16 feet	20 feet	30—40 feet

(Prior Code, § 23-245)

Sec. 105-34. Residential landscaping requirements.

- (a) The following table explains the landscaping requirements for residential uses:

ON-SIGHT RESIDENTIAL PLANTING REQUIREMENTS

Residential Type	Minimum Number Shade Trees	Minimum Number Ornamental or Evergreen Trees	Notes
Single-family, detached lots 20,000 sq. ft. or larger	3 per lot	2 per lot	
Single-family, detached lots 11,000—19,999 sq. ft.	2 per lot	1 per lot	
Single-family, detached lots 7,000—10,999 sq. ft.	1 per lot	1 per lot	

<i>Residential Type</i>	<i>Minimum Number Shade Trees</i>	<i>Minimum Number Ornamental or Evergreen Trees</i>	<i>Notes</i>
Single-family, detached cluster subdivision			Total number of trees to be located on lots and in common open spaces
R-7	3 per lot	2 per lot	
R-4	2 per lot	1 per lot	
R-3	1 per lot	1 per lot	
Townhouses; single-family semi-detached; two-family, three-family	1.5 per dwelling	1 per dwelling	Total number of trees to be located on lots and in common open spaces
Multifamily dwellings	2 per dwelling	2 per dwelling	Total number of trees to be located on lots and in common open spaces

- (b) These requirements are enforced at the building permit stage of subdivision development.
 - (c) Any required planting in common areas must be done prior to final plat approval.
 - (d) Landscaping features must be shown on preliminary plat for either major or minor subdivision.
- (Prior Code, § 23-246)

Secs. 105-35—105-56. Reserved.

DIVISION 2. SCREENING AND BUFFER YARDS

Sec. 105-57. City council findings concerning the need for screening requirements.

The city council finds that:

- (1) Screening between two lots lessens the transmission from one lot to another of noise, dust, and glare.
- (2) Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimal screening can provide an impression of separation of spaces, and more extensive screening can shield entirely one use from the visual assault of an adjacent use.
- (3) Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening.

- (4) The provisions of this division are necessary to safeguard the public health, safety and welfare.

(Prior Code, § 23-247)

Sec. 105-58. General screening standard.

Every development shall provide sufficient screening so that:

- (1) Neighboring properties are shielded from any adverse external effects of that development;
- (2) The development is shielded from the negative impacts of adjacent uses such as major streets or railroads.

TABLE OF SCREENING BETWEEN INCOMPATIBLE USES
(Described in section 105-59)

	<i>S-F</i>	<i>DUPLEX</i>	<i>MF</i>	<i>COMMERCIAL</i>	<i>INDUSTRIAL</i>
S-F	None	Semi-Opaque	Opaque	Opaque	Opaque
Duplex, townhouse	Broken	None	Broken	Opaque	Opaque
MF	Opaque	Broken	None	Semi-Opaque	Opaque
Commercial	Opaque	Opaque	Semi-Opaque	None	Broken
Industrial	Opaque	Opaque	Opaque	Broken	None

(Prior Code, § 23-248)

Sec. 105-59. Descriptions of screens.

The following three basic types of screens are hereby established and are used as the basis for the table of screening requirements set forth in section 105-58.

- (1) Opaque screen, type A is a screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants.
- (2) Semi-opaque screen, type B is a screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual

contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone of intermittent visual obstruction may contain deciduous plants.

- (3) Broken screen, type C is a screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants.

(Prior Code, § 23-249)

Sec. 105-60. Fences.

(a) Applicability of provisions. The regulations set forth in this section shall govern all fences to be constructed within the city.

(b) Site plan and building permit are required. No fence shall be permitted until all on-site utilities have been located and a permit has been issued in the manner now provided for by city ordinance for the issuance of building permits.

(c) Front yard fences. Except in districts zoned for commercial or industrial uses, no fence, barrier wall or other obstruction shall be placed or constructed between the parallel street right-of-way line and front setback line; however, it shall be permissible to construct a fence, which meets the following criteria:

- (1) Visibility through the fence shall not be less than 50 percent; and
- (2) The fence shall not exceed 48 inches in height when chain link or 36 inches when wood slats.

(d) Permitted: generally eight-foot limit. Except as set forth in this article, fences shall be permitted that do not exceed eight feet in height.

(e) Clearance from drainage easement, side-yard street frontage and meters, and gates required by city planner:

- (1) Fences of drainage easements are only allowed in the following circumstances:
 - a. A drainage easement surrounding a detention/retention pond may be fenced, provided that a stormwater engineer provides information demonstrating that

fencing of the drainage easement will not diminish the ability of the detention/retention facility to function as designed. Fences meeting the above criteria must be constructed using a chainlink or shadow box style fence.

- b. A grass-lined drainage easement may be fenced in circumstances where the grass-lined ditch is designed to carry less than ten cubic feet per second of volume and has a drainage area of less than 2½ acres. Fences in a grass lined easement meeting the above criteria must be constructed using a chainlink or shadow box style fence.
- (2) Fences constructed along the side yard adjacent to a street shall have a minimum of a ten-foot setback from the back of curb or setback to the property line, whichever is greater.
- (3) If the electric meter is on the side of the house, no fence shall be constructed which obstructs the ability to read the electric meter. In circumstances where fulfilling this requirement would prohibit a property owner from obtaining a fence permit, a fence permit may be released if a gate is installed or visibility is given through the fence to allow safe access to read and/or repair said meter.

(Prior Code, § 23-250)

Secs. 105-61—105-78. Reserved.

DIVISION 3. SHADING

Sec. 105-79. City council findings and declaration of policy on shade trees.

- (a) The city council finds that:
 - (1) Trees are proven producers of oxygen, a necessary element for human survival;
 - (2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breath;
 - (3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;
 - (4) Trees have an important role in neutralizing wastewater passing through the ground from the surface to groundwater tables and lower aquifers;
 - (5) Trees, through their root systems, stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control, and flood control;
 - (6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and
 - (7) For the reasons indicated in subsection (a)(6), trees have an important impact on the desirability of land and therefore on property values.

(b) Based upon the findings set forth in subsection (a) of this section, the city council declares that it is not only desirable but essential to the health, safety and welfare of all persons living or working within the city limits to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

(Prior Code, § 23-261)

Sec. 105-80. Retention and protection of large trees.

(a) Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.

(b) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 12½ feet (measured from the centerline of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(c) The retention or protection of trees 18 inches in diameter or more as provided in subsection (a) and (b) of this section unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

(d) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsection (a) or (b) of this section, and, as a result, the parking requirements set forth in article V of chapter 111 cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsection (a) and (b) of this section, up to a maximum of 15 percent of the required spaces.

(Prior Code, § 23-22)

Secs. 105-81—105-103. Reserved.

ARTICLE III. SINKHOLE PRESERVATION REQUIREMENTS *

Sec. 105-104. Definitions for this article.

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

Compensatory excavation means the removal of earth within a sinkhole so as to increase the volume of stormwater the sinkhole will hold during a storm event.

***Editor's note**—Ord. No. 2259, § 1, adopted May 23, 2022, repealed the former Art. III. in entirety, and enacted a new Art. III as set out herein. The former Art. III pertained to parking lot and landscaping worksheets and derived from Prior Code § 23-2631.

Critically sensitive area means areas that are officially designated by federal or state regulatory bodies or law as being especially sensitive or susceptible to contamination hazards from urban runoff including areas such as recharge areas of domestic water supply wells, recharge areas of springs used for public or private water supply, or recharge areas of caves that provide habitat to endangered species.

Development activity means the following:

- (1) Land disturbance activities which require the issuance of a land disturbance permit pursuant to part IV of the technical specification manual of the city.
- (2) Construction activity which requires the issuance of a building permit pursuant to this Code occurring where there is a known or apparent sinkhole on the tract or adjoining the tract in which the construction activity is occurring.
- (3) The subdivision of land, pursuant to this Code, where the property to be subdivided contains a known or apparent sinkhole on the tract or any adjoining tract.

Drainage easement means an easement which is dedicated or granted to the city for the purpose of conveying, storing, or treating stormwater runoff and which restricts by its terms the placement or location of structures within the easement area.

Grading means the movement of soil or rock by motorized equipment, except this definition shall not apply to the farming of land.

Hazard area, low means sinkhole drainage areas where runoff is generated by land uses posing relatively low levels of potential for groundwater contamination. Land uses considered low hazard areas for the purposes of this article include:

- (1) Wooded areas and lawns;
- (2) Parks and recreation areas;
- (3) Residential developments served by municipal sanitary sewer, provided that directly connected impervious areas discharging into the sinkhole area less than one acre.
- (4) Low density commercial and office developments provided directly connected impervious areas discharging to the sinkhole are less than one acre.
- (5) Discharge from graded areas less than one acre having required sediment controls.

Hazard area, moderate means sinkhole drainage areas where runoff is generated by land uses posing relatively moderate levels of potential for groundwater contamination. Land uses considered moderate hazard areas for the purpose of this article include:

- (1) Concentrated discharge from streets, parking lots, roofs, and other directly connected impervious areas having an area greater than one acre but less than five acres.
- (2) Multi-family residential developments and higher intensity office developments provided that directly connected impervious areas discharging to the sinkhole are less than five acres.

- (3) Discharge from graded areas greater than one acre and less than five acres having required sediment controls.

Hazard area, high means sinkhole drainage areas where runoff is generated by land uses posing relatively high levels of potential for groundwater contamination. Land uses considered high hazard areas for the purpose of this article include:

- (1) Collector and arterial streets and highways used for commercial transport of toxic materials.
- (2) Railroads.
- (3) Concentrated discharge from streets, parking lots, roofs, and other directly connected impervious areas having an area greater than five acres.
- (4) Commercial, industrial, and manufacturing areas.
- (5) Individual wastewater treatment systems.
- (6) Commercial feedlots or poultry operations.
- (7) Discharge from graded areas greater than five acres having required sediment controls.

Heavy equipment means motorized equipment having a gross weight rating of more than six tons.

Intervening mitigation feature means an existing or constructed improvement that controls stormwater runoff by detaining it or providing a water quality benefit.

Permit means the form of approval issued by the director to authorize certain development activity and is issued in compliance with this article.

Responsible party means the fee owner of property or person authorized to act on the property owner's behalf; or any person allowing, causing, or contributing to a violation of this article.

Side slope sinkhole means a type of sinkhole which has formed on a sloped surface, but which has not subsided to the degree that a closed depression is formed. Side slope sinkholes are usually characterized by a localized flattening of the topography.

Simulated storm event means the soil conservation service (SCS) type II storm event with an annual exceedance probability of one percent and a duration of 24 hours.

Sinkhole means any closed depression formed by removal (typically underground) of water, surficial soil, rock, or other material. The existence of a sinkhole shall be indicated by the closed depression contour lines of the topographical maps maintained by the city or as may be determined by a field survey prepared by a professional land surveyor registered in the State of Missouri. This term shall also include side slope sinkhole as defined in this article.

Sinkhole drainage area means any area that contributes surface water directly to a sinkhole or sinkholes.

Sinkhole eye means a discrete hole, or shaft, within the floor or slope of a solution sinkhole that provides a conduit for drainage of storm water to the subsurface drainage system.

Sinkhole flooding area means the area inundated by runoff from a simulated storm event based on fully developed conditions in the watershed as well as current zoning and potential land use.

Sinkhole rim means the lateral limit of a sinkhole and is defined by the topographic break, or transition, between the natural ground surface and the sloped sinkhole wall.

Solution sinkhole means a sinkhole that forms by dissolution of soluble bedrock, such as limestone, dolomite, or gypsum. Solution sinkholes typically occur as bowl-shaped depressions.

Stormwater control measure means non-structural measures and structural controls used to meet the flood control detention and water quality requirements of this article.

Watercourse means land which has a conformation so as to give to surface water flowing from one tract of land to another tract of land a fixed and determinate course so as to uniformly discharge it upon the servient tract at a fixed and definite point. It shall include but shall not be limited to ravines, swales, sinkholes or depressions of greater or less depth extending from one tract and so situated as to gather up the surface water flowing upon the dominant tract and to conduct along a definite course to a definite point of discharge upon the servient tract. It shall not be deemed to be important that the force of water flowing from one tract of land to another has not been sufficient to wear out a channel or canal having definite or well-marked sides or banks. If the surface water, in fact, uniformly or habitually flows over a given course having reasonable limits as to the width of the line of its flow, it shall be considered to have a definite course.

(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-105. Purpose.

The purpose of this article is to regulate certain development activity in and around karst topography features to prevent flood hazards and protect water quality. Because karst features, such as sinkholes, hold stormwater runoff and provide more direct conduits to sources of groundwater, the treatment of these areas becomes a matter of public interest.

(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-106. Certain development activities—Prohibited; director to authorize certain development activities—When.

(a) It shall be a violation of this article for any person or responsible party to engage in any development activity on a tract where a sinkhole is present without first obtaining a permit.

(b) It shall be a violation of this article for any person or responsible party to engage in any development activity which increases a sinkhole's discharge rate or involves the excavating of a sinkhole eve or the installation of disposal wells which divert surface runoff to the ground water system, without first obtaining a permit.

(c) The director may authorize the construction or modification of single-story residential dwellings within a sinkhole rim under the following conditions:

- (1) A permit is issued authorizing the construction or modification.
- (2) All parts of the dwelling are setback at least 25 feet from the sinkhole flooding area.
- (3) The finished floor elevation of the dwelling is located according to the requirements of section 105-109 of this article.
- (4) A geotechnical investigation conducted by a qualified professional geologist registered in the State of Missouri concludes that the dwelling's proposed location is structurally sound, and the findings of such investigation are provided to the director.

(d) No public street shall be placed below an elevation of at least one foot above the sinkhole flood elevation resulting from the 100-year, 24-hour rainfall with no outlet.

(e) Persons or responsible parties seeking approval for golf courses shall provide a management plan for the use of pesticides and fertilizers if, in the judgment of the director, the use of pesticides and fertilizers would impact any sinkholes on the golf course. Said management plan shall be approved by the director and deviations or violations from this plan shall be considered violations of this section.

(f) No person shall use pesticides or fertilizers within 25 feet of any sinkhole rim.

(g) No person shall prune trees or other vegetation or remove compromised or dead trees with heavy equipment within 25 feet of any sinkhole rim.

(h) Landscaping and gardening is permitted outside the sinkhole eye provided erosion and sediment control measures are practiced with minimum tillage and mulches.

(i) Construction and placement of incidental landscaping and recreational structures such as playground equipment is permitted except in the sinkhole eye.

(j) No person shall store or apply chemicals or other contaminates within the sinkhole rim.

(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-107. Treatment of sinkholes—Generally.

(a) All development activity shall conform to the following principles, which shall guide the decisions of the director regarding the administration of this article, which are listed in priority order:

- (1) *Avoidance.* Development activity shall be generally prohibited within the sinkhole rim. However, in the event that it can be determined by the director that avoidance

measures are found to be against the public interest of health, safety, and welfare then development activity within the sinkhole rim may be permitted in accordance with the principles that follow.

(2) *Minimization.* In cases where avoidance measures cannot be utilized, measures shall be taken to minimize the impact to the sinkhole to the least drastic degree or extent possible as a result of the development activity.

(3) *Mitigation.* In situations where substantial or severe impacts to a sinkhole are unavoidable, mitigation measures shall be utilized as part of the development activity to reduce the potential for hazard to the degree possible under the circumstances.

(b) The alteration of sinkholes is prohibited unless such alterations are required by one of the following conditions:

(1) An underground cavity has caused a collapsed sinkhole to form, and the collapsed sinkhole poses a threat to public health and safety unless repaired or mitigated.

(2) A sinkhole has been altered or filled unknowingly or prior to the passage of these regulations.

(3) Due to the operation and maintenance of streets, utilities, and other public infrastructure.

(4) The location of streets, utilities or other public infrastructure would render access or service to property impractical unless alterations to a sinkhole are permitted.

(5) Alteration of a sinkhole is necessary for the construction of a street where the alignment of the street would cause a traffic hazard unless the sinkhole is altered.

(c) When alterations are authorized, the guiding principles referenced in this section shall apply to the director's determination on whether such measures are to be approved.
(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-108. Sinkhole evaluation—Requirements and contents.

(a) Development activity subject to the provisions of this article shall be prohibited until the director has issued a permit for such activity. Applicants for such permit shall provide a sinkhole evaluation to the director which shall be performed by a qualified professional geologist or stormwater engineer registered in the State of Missouri as a professional geologist or stormwater engineer. Said sinkhole evaluation shall contain at least the following:

(1) Identification of the topographic rim and identification of the sinkhole drainage area of all sinkholes which are anticipated to receive stormwater runoff as a result of the proposed development activity.

(2) A flooding analysis of all sinkholes identified in the evaluation which shall include a description of the methods used in performing said analyses and all supporting calculations and reports.

- (3) A geologic analysis of all sinkholes identified in the evaluation which shall include all subsurface data collected to determine the geologic form and soil profile of the sinkhole area.
- (4) Whether the site of the proposed development activity lies within a critically sensitive area.
- (5) Identify whether any of the identified sinkholes are located within a low, moderate, or high hazard area.
- (6) A description and design of any mitigation measures, including water quality features, filtration buffers and screens, and structural remediation plans as such measures are required by the provisions of this article.
- (7) Identification of the location and elevation of the lowest enclosed space for all buildings located within the sinkhole drainage area or to be located within the sinkhole drainage area due to the proposed development activity.
- (8) Any additional information or analyses that the director may require and that are reasonably required to carry out the intent and provisions of this article.

(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-109. Flood prevention requirements.

- (a) When a sinkhole evaluation indicates that a sinkhole will receive stormwater runoff from proposed development activity, the sinkholes shown to receive stormwater runoff applicants for a permit shall also conduct a flooding evaluation to identify the flooding impacts of the proposed development activity. The flooding evaluation shall involve the following assumptions, methods of analysis, and engineering:
 - (1) It shall be assumed that the sinkhole has no subsurface outflow unless a subsurface outflow rate is determined according to the requirements of subsection (b)(3)2.(iii) of this section.
 - (2) The flooding evaluation shall assume the conditions associated with a simulated storm event, as such term is defined in this article. Runoff shall be calculated using the soil conservation service curve number loss model.
 - (3) If the runoff analysis indicates flooding levels that would overflow the topographic rim of the sinkhole, then the flooding elevations shall be determined using reservoir routing methods. In this case, additional downstream evaluation shall be required to determine that the post-development flow does not exceed the pre-development runoff flow and that any channelized or concentrated flow is discharged into an existing public drainage easement, public right-of-way, or existing watercourse.
 - (4) If runoff during the simulated storm event is detained by an intervening mitigation facility for a period of at least 24 hours before it would enter the sinkhole, then such volume of runoff may be excluded from the flooding analysis required by this section.

(b) *Flooding elevation restrictions.* The flooding evaluation shall identify the post-development sinkhole flooding area, which shall be the area prone to flooding impacts based on the proposed development activity.

- (1) If the post-development sinkhole flooding area is located entirely within the property in which the development activity is occurring, a drainage easement shall be established covering the sinkhole flooding area or an area containing the entirety of the sinkhole plus the vegetative buffer required by this article, whichever is larger.
- (2) If the post-development sinkhole flooding area is located fully or partially on another tract which is not owned in fee by the permit applicant, the following requirements shall apply:
 - a. The post-development sinkhole flooding area shall be contained within a drainage easement; and
 - b. Any concentrated flow discharged from the proposed development shall be contained within a drainage easement until it reaches the receiving sinkhole, existing public drainage easement, public right-of-way, or existing watercourse. The easement area shall contain the runoff from the storm event with an annual exceedance probability of one percent that produces the highest peak flow, regardless of duration.
- (3) Where it is not possible for a drainage easement to contain the sinkhole flooding area, a drainage easement shall not be required when the flooding evaluation indicates that the flooding evaluation of the proposed development activity that:
 - a. The proposed development will not cause a rise in the flood elevation within a reasonable tolerance of 0.1 feet, or
 - b. The impacts of both the proposed development and any future development in the watershed will not impact any existing structures or improvements and will not increase the flooding elevation by more than one foot. The increase in the flooding elevation shall be distributed proportionately based on watershed size. For example, if the development is 20 percent of the watershed, that development may increase the flooding elevation by 20 percent of one foot or 0.2 feet. This can be determined by calculating the runoff rates and volumes from the entire watershed, assuming fully developed conditions based on current zoning and potential future land use and then calculating the resulting water surface elevation.
 - c. The following alternatives, listed in order of priority, may be used individually or in combination, if needed, to comply with the requirements of this section:
 1. Stormwater control measures that reduce runoff volume such as bioretention, pervious pavement, or similar measures. Small-scale, distributed applications are preferred over centralized, large-scale practices in areas with known or suspected sinkholes.

2. *Detention storage.* Because traditional detention storage has little or no impact on the volume of runoff from a site, it is seldom the solution for impacting the water surface elevation of an adjacent sinkhole. However, in the case where detention is warranted, the following conditions shall be met:
 - (i) It must be shown that the peak basin outflow is less than the existing peak rate of runoff from the site and less than the discharge rate of the sinkhole.
 - (ii) *Compensatory excavation within the rim.* Where it can be demonstrated that compensatory excavation within a sinkhole rim is the only feasible alternative available to protect downstream private property or public facilities from the effects of stormwater runoff, compensatory excavation may be undertaken within the sinkhole rim when expressly authorized by the director and where the following conditions are satisfied:
 - (A) The compensatory excavation creates no adverse impact on groundwater, sinkhole stability, flood conditions, or other properties.
 - (B) A comprehensive erosion and sediment control plan is developed to keep sediment confined to the excavation site.
 - (iii) *Determination of outflow capacity of sinkhole.*
 - (A) The assumption required by this article that the sinkhole does not have any outflow capacity may be overcome according to the following provisions:
 - A. The stage-discharge characteristics of the sinkhole shall be estimated by monitoring the sinkhole during at least two storm events exceeding one inch of runoff in a six hour period.
 - B. In sinkhole complexes, receiving or terminal sinkholes must also be analyzed if they receive overflow from upstream sinkholes.
 - C. Input rainfall hydrographic shall be determined by a recording rain gauge or readings from an approved rain gauge at 15-minute intervals.
 - D. The outflow rate shall be estimated by adjusting the stage-discharge relationship of the reservoir routing model until the maximum reservoir state in the model correlates with the maximum observed stage in the sinkhole. The maximum stage shall be determined to the nearest 0.1 feet by a field survey conducted by a registered design professional.

- E. Stages may be determined by field instruments at the option of the registered design professional conducting the assessment. Information regarding the instrument used shall be submitted with the report.
 - F. Where debris lines are used as evidence of maximum stage, photographs shall be provided.
 - G. If by accounting for the outflow from the sinkhole, the conditions set forth in this section can be met, no further flooding analysis is necessary.
 - H. The volume of runoff storage in the sinkhole(s) can be counted toward stormwater detention requirements, provided that proper sediment and erosion control measures are provided as set forth in "sediment and erosion control" and water quality considerations as set forth in this section can be met.
 - I. If in the opinion of the director, the outflow capacity of the sinkhole may be adversely affected by groundwater conditions, the effects of which may not be adequately determined by observing surface water stages, the director may require installation of monitoring wells in each sinkhole, for the purpose of monitoring groundwater levels in comparison to surface water levels.
- (4) The lowest enclosed space for all new buildings within or adjacent to a sinkhole flooding area shall be:
- a. A minimum of five feet above the flooding elevation where there is no overflow from the sinkhole in the simulated storm event; or
 - b. One foot above the flooding elevation determined by the overflow elevation calculated for the simulated storm event, whenever the difference between the topographic rim and flooding elevation is less than five feet.
- (5) When existing improvements are below the flooding elevation resulting from the simulated storm event, an evaluation of the impacts during higher frequency or shorter duration rainfall events may be required. It shall be shown that runoff rates and volumes from a proposed development will not increase the flooding frequency for any such existing building, structure, or public street.

(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-110. Water quality protection.

- (a) Proposed land use and development within a sinkhole drainage area shall provide measures for water quality protection according to the following requirements:
- (1) A 25-foot vegetative buffer between any land improvement or land disturbance and the sinkhole flooding area. The width of the required buffer may be reduced with the

express permission of the director if it can be demonstrated that equivalent or better water quality measures will be provided to substitute for water quality utility of the vegetative buffer.

- (2) Development that disturbs a land area exceeding one acre in total within a sinkhole watershed, shall obtain a land disturbance permit and provide for all necessary sediment and erosion controls.
 - a. Where the sinkhole is in a critically sensitive area, as defined in this article, existing ground cover shall not be removed within 30 feet of the sinkhole rim and a silt barrier shall be provided around the outer perimeter of the buffer area.
 - b. A sediment basin is required at each point where concentrated flows are discharged into the sinkhole. The sediment basin shall be designed according to the requirements of the city's technical specifications manual.
- (3) Site design shall minimize directly connected impervious area and incorporate sheet flow and vegetated conveyance wherever possible within the sinkhole watershed.
- (4) Areas classified as low or moderate hazard potential for groundwater contamination and where flow into the sinkhole occurs only as sheet flow, water quality requirements can be satisfied by maintaining a permanent vegetated buffer of at least 30 feet around the sinkhole rim. Use of pesticides and fertilizers will not be permitted within this buffer area. Animal waste shall not accumulate in this buffer area.
- (5) Areas classified as low hazard potential for groundwater contamination where concentrated flow from directly connected impervious areas of less than one acre may be discharged into the sinkhole through grass swales and channels. Swales and channels shall be designed for non-erosion velocities and appropriate temporary erosion control measures such as sodding, or erosion control blankets provided.
- (6) Storage and infiltration basins are required for all areas classified as high hazard potential for groundwater contamination or areas classified as moderate hazard for groundwater contamination where concentrated stormwater flows enter the sinkhole.
 - a. Storage and infiltration basins shall be designed to capture the runoff from storms up to one inch in six hours and release runoff over a minimum period of 24 hours. Standard outlet structures for sedimentation and infiltration basins are shown in appendix F of the city's technical specifications manual.
- (7) Developments or land uses that involve the outdoor handling of hazardous materials or other substances that pose a threat to groundwater quality must provide a containment plan to show what measures will be taken to assure that discharges of these materials will be contained and prevented from entering the sinkhole. Measures may include the installation of warning signs, fencing, or site arrangement that demonstrates an affirmative action to reduce the possibility of contamination.

(Ord. No. 2259, § 1, 5-23-2022)

Sec. 105-111. Sinkhole closure.

(a) An exemption may be granted to the police of sinkhole avoidance, minimization, and mitigation upon approval of a plan to close a sinkhole. The sinkhole closure plan shall include the following information:

- (1) Reason justifying the closure.
- (2) Location and description of the sinkhole, including dimensions, depth, and a description of the sinkhole eye, and one-foot contour interval topographic map of the sinkhole and its drainage area.
- (3) Geotechnical report describing the fill plan, source of clean soil fill, soil testing data, and specifications for compaction.
- (4) Foundation design report detailing the design of any structures to be constructed on the closed sinkhole.
- (5) Stormwater management report that includes pre-development and post-development flooding analysis and describing how stormwater will be managed on-site.
- (6) Groundwater report that assesses the impact of the sinkhole closure on groundwater quality and groundwater recharge.
- (7) Site development report that details site grading, roadway construction, utility construction, and erosion control (best management practices).
- (8) The sinkhole closure application must be signed and sealed by a professional geologist registered in the state and must be accompanied by a performance bond in an amount totaling 110 percent of the cost of proposed closure.
- (9) The sinkhole closure design must provide for engineered fill with a permeability of at least 1.0×10^{-6} cm/sec. bearing capacity. Any sinkhole eyes that exist must be stabilized by construction of a graded filter. A survey of the closed sinkhole must be filed with the county recorder of deeds.

(Ord. No. 2259, § 1, 5-23-2022)

Chapter 106

RESERVED

Chapter 107

FLOODPLAIN MANAGEMENT

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ARTICLE I. IN GENERAL**Sec. 107-1. Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning they have in common usage and to give this chapter its most reasonable application.

100-year flood. See base flood.

Accessory structure means the same as appurtenant structure.

Actuarial or risk premium 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 administrator's interpretation of any provision of this chapter or a request for a variance.

Appurtenant structure means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard is 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.

Base flood elevation means the elevation of the surface of the water during a one percent annual chance flood event.

Basement means any area of the structure having its flood subgrade (below ground level) on all sides.

Building. See structure.

Chief executive officer or chief elected official means the city administrator.

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 human-caused 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 waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

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 hazard map means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

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 flood prone area means any land area susceptible to being inundated by water from any source. (See flooding.)

Floodplain management means the operation of an overall program of corrective and preventive 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 reversed 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. This term 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 Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary 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 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.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee or levees and associated structures, such as closure, and drainage devices that are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished flood-resistant enclosure, useable 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 chapter.

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) or the flood insurance rate map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market value or fair market value means an estimate of what is fair, economical, 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 (NFIP).

Numbered A zone means a special flood hazard area where the flood insurance rate map shows the base flood elevation.

One percent annual chance flood. See "base flood."

Participating community also known as an "eligible community," means a community in which the administrator has authorized the sale of flood insurance.

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

Permit means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as:

- (1) The site plan;
- (2) An elevation certificate; and
- (3) Any other necessary or applicable approvals or authorizations from local, state or federal authorities.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Reasonably safe from flooding means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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 a temporary living quarters for recreational camping, travel, or seasonal use.

Remedy a violation means to bring a 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.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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. "Risk premium rates"¹ 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 a FHBMR or FIRM as zones (unnumbered or numbered) A, AO, A1-30, 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, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement or 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 building, 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 that 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 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 to any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term includes repetitive loss buildings (see definition).

For the purpose of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely 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."

Substantial improvement means any combination of reconstruction, alteration, or improvement to a building, taking place for a ten-year period, in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely 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."

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Unnumbered A zone means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not determined.

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 chapter 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.

(Prior Code, § 22-27; Ord. No. 1118, 4-2000; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-2. Penalties for violation.

(a) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a municipal ordinance violation. Any person, firm, corporation, or other entity that violates the provisions of this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than authorized by applicable state statute or section 1-9 of this Code, and in addition, and as approved by the municipal judge, shall pay all costs and expenses involved in the case incurred by the city. Each day such violation continues shall be considered a separate offense.

(b) A structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation of the provisions of this chapter until such documentation is provided.

(c) The imposition of fines or penalties for any violation for non-compliance with the provisions of this chapter shall not excuse the violation or noncompliance or allow it to continue. All such violations or noncompliant actions shall be remedied within an established and reasonable time.

(d) 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.

(Prior Code, § 22-25; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-3. Statutory authorization.

The legislature of the State of Missouri has, in RSMo 89.020, delegated the responsibility to local governmental units to adopt floodplain management regulations designated to protect the health, safety, and general welfare.

(Prior Code, § 22-1; Ord. No. 1118, 4-2000; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-4. 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 affect 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 obstructions in any designated floodway 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 chapter uses a standard engineering method of analyzing flood hazards, which consists 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 chapter is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this chapter. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any given year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for Christian County, dated November 2, 2023, 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.

(Prior Code, § 22-2; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-5. Statement of purpose.

It is the purpose of this chapter:

- (1) To promote the public health, safety, and general welfare; to minimize those losses described in section 107-4;
- (2) To establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22 (a)(3); and
- (3) To meet the requirements of 44 CFR 60.3(b) by applying the provisions of this chapter to:
 - a. 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;
 - b. Requires uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
 - c. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Prior Code, § 22-3; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-6. Lands to which this chapter applies.

(a) This chapter shall apply to all lands within the jurisdiction of the city identified as numbered and unnumbered A zones and AE zones, on the flood insurance rate map (FIRM) panel numbers 29043C0058D, 29043C0059D, 29043C0062D, 29043C0064D, 29043C0066D, 29043C0067D, 29043C0068D, 29043C0069D dated November 2, 2023 as amended, and any future revisions thereto.

(b) In all areas covered by this chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the floodplain administrator under such safeguards and restrictions as the city council 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 article III of chapter 101 of this Code.

(Prior Code, § 22-4; Ord. No. 1674, 12-2010; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-7. 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 chapter and other applicable regulations.

(Prior Code, § 22-6; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-8. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this chapter imposes greater restrictions, the provisions of this chapter shall prevail over other applicable codes, ordinances, or regulations of the city.

(Prior Code, § 22-7; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-9. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, shall be liberally construed in favor of the city, and shall not be deemed a limitation or repeal of any other power granted by state statutes to the city.

(Prior Code, § 22-8; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter 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 human-caused or natural causes, such as ice jams and bridge openings restricted by debris. This chapter 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 chapter 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 chapter or any administrative decision lawfully made thereunder.

(Prior Code, § 22-9; Ord. No. 2330, § 1, 10-10-2023)

Secs. 107-11—107-38. Reserved.**ARTICLE II. ADMINISTRATION AND ENFORCEMENT****DIVISION 1. GENERALLY****Sec. 107-39. Amendments.**

The regulations, restrictions, and boundaries set forth in this chapter 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. A copy of such amendments will be provided

to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this chapter are in compliance with the National Flood Insurance Program (NFIP) regulations.

(Prior Code, § 22-26; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-40. Floodplain administrator.

The city administrator, or their designee, is hereby designated as the floodplain administrator under this chapter. The floodplain administrator is hereby appointed to administer and implement the provisions of this chapter. Should the city administrator delegate the appointment made herein, such delegation shall be in writing and placed on file with the city clerk for public inspection.

(Prior Code, §§ 22-5, 25-12; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-41. Duties and responsibilities of floodplain administrator.

Duties of the floodplain administrator 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 chapter have been satisfied;
- (2) Review of all applications for floodplain development permits for proposed development to assure 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 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 non-residential structures have been floodproofed;

- (9) When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a state registered professional engineer or architect.

(Prior Code, § 22-13; Ord. No. 1118, 4-2000; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-42. Floodplain development permit.

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 107-6. No person, firm, corporation or unit of government shall initiate any development of substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development. (Prior Code, § 22-11; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-43. 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 of occupancy for which the proposed work is intended;
- (4) Indicate the fair market value of the structure and the fair market value of the improvement;
- (5) Specify whether the 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 floodplain administrator;
- (8) Be accompanied by plans and specifications for proposed construction; and
- (9) Be signed by the permittee or authorized agent who may be required to submit evidence to indicate such authority.

(Prior Code, § 22-14; Ord. No. 2330, § 1, 10-10-2023)

Secs. 107-44—107-74. Reserved.

DIVISION 2. VARIANCE AND APPEALS

Sec. 107-75. Establishment of appeal board.

The board of adjustment shall hear and decide appeals and requests for variances from the floodplain management requirements of this chapter.

(Prior Code, § 22-19; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-76. Responsibility of appeal board.

(a) Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the floodplain administrator, the applicant may apply for such floodplain development permit or variance directly to the appeal board, as defined in section 107-75.

(b) The appeal board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(Prior Code, § 22-20; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-77. Floodplain management variance criteria.

In passing upon such applications for variances, the appeal board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this chapter, 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.

(Prior Code, § 22-22; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-78. Conditions for approving floodplain management variances.

(a) 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 (b) through (f) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(b) 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 and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) 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.

(f) 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 chapter.

(g) The floodplain administrator shall maintain records of all variance actions. The appeal board shall provide justification for the issuance of a variance.

(h) Variance may be issued for new construction and substantial improvements and for the development necessary for the conduct of a functionally dependent use provided that the criteria of this section is met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Prior Code, § 22-23; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-79. Conditions for approving variances for accessory structures.

(a) Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances.

(b) Variances granted shall meet the following conditions as well as those criteria and conditions set forth in sections 107-77 and 107-78.

(c) 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-flood proofed:

- (1) Use of the accessory structures must be solely for parking and limited storage purposes in any special flood hazard area as identified on the community's flood insurance rate map (FIRM).
- (2) 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 107-102(c)(2).
- (3) The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with section 107-102(c)(1). 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.
- (4) 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 107-102(c)(4).
- (5) 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 107-103(a)(3).
- (6) The accessory structures must comply with the floodplain management floodway encroachment provision of section 107-103(b)(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.

- (7) Equipment, machinery, or other contents must be protected from any flood damage.
- (8) No disaster relief assistance under any program administered by a federal agency shall be paid for any repair or restoration costs of the accessory structures.
- (9) 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.

(Prior Code, § 22-24; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-80. Further appeals.

Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Christian County Circuit Court as provided in RSMo 89.110.

(Ord. No. 2330, § 1, 10-10-2023)

Secs. 107-81—107-101. Reserved.

ARTICLE III. FLOOD HAZARD REDUCTION

Sec. 107-102. General standards.

- (a) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone zones and AE zones, unless the conditions of this section are satisfied.
- (b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance (100-year) flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this chapter. 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.
- (c) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zones or AE zones on the community's 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.
- (d) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - (1) 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;

- (2) Construction with materials resistant to flood damage;
- (3) Utilization of methods and practices that minimize flood damages;
- (4) 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;
- (5) 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
- (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to ensure that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - d. 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.

(e) *Storage, material and equipment.*

- (1) 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.
- (2) 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.

(f) *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:

- (1) There is no human habitation or occupancy of the structure;
- (2) The structure is of single-wall design;
- (3) The accessory structure meets the following floodplain management requirements; and
- (4) A floodplain development permit has been issued.

Wet-flood proofing is only required for small low-cost structures.

(g) *Critical facilities.*

- (1) All new or substantially improved critical nonresidential facilities including, but not limited to, governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the 500-year flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level, 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 the 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 administrator as set forth in the National Flood Insurance Program (NFIP) regulations.
- (2) All critical facilities shall have access routes that are above the elevation of the 500-year flood.
- (3) No critical facilities shall be constructed in any designated floodway.

(h) *Nonconforming use.* A structure, or the use of a structure or premises that was lawful before the passage of an amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

- (1) If such structure, use or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this chapter.
- (2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration of a structure listed on the National Register of Historic Places, the state inventory of historic places, or local inventory of historic places upon determination.

(Prior Code, § 22-15; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-103. Specific standards.

(a) In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data has been provided, as set forth in section 107-102(b), the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential building, including manufactured homes, shall have the lowest floor, including basement, elevated to or one foot above base flood level. The elevation of the lowest floor shall be certified by a state licensed land surveyor, engineer, or architect.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or other nonresidential building (including manufactured

homes) shall have the lowest floor, including basement, elevated to or one foot above the base flood level, 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 state registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in section 107-41 (7)c. The FEMA, Region VII office recommends elevating to one foot above the base flood elevation.

- (3) *Enclosures below lowest floor.* 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.
- (b) *Floodways.* Floodways pose an extreme hazard due to the velocity of flood waters that carry debris and potential projectiles. In all areas of special flood hazard, once floodway data is obtained, as set forth in this chapter, the following provisions are required:
 - (1) The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one foot at any point.
 - (2) Encroachments, including fill, new construction, substantial improvements, and other development within the designated regulatory floodway, shall be prohibited 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) Encroachments may be permitted within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the floodplain administrator applies for a conditional FIRM and Floodway revisions, fulfills the requirements of such revisions as established under the provisions of 44 CFR § 65.12, and receives the approval of FEMA.

- (4) If the requirements of section 107-103(b)(2) are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.
- (5) In unnumbered A zones, the floodplain administrator 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 section 107-102(b).

(Prior Code, § 22-16; Ord. No. 2330, § 1, 10-10-2023; Ord. No. 2332, § 1, 10-23-2023)

Sec. 107-104. Manufactured homes.

(a) All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones, of 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.

(b) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones, on the community's FIRM sites:

- (1) Outside of a manufactured home park or subdivision;
- (2) In a new manufactured home park or subdivision;
- (3) In an expansion to an existing manufactured home park or subdivision; or
- (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a state licensed land surveyor, engineer, or architect.

(c) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones and AE zones, on the community's FIRM, that are not subject to the provisions of subsection (b) of this section, be elevated so that either:

- (1) The lowest floor of the manufactured home is at or one foot* above the base flood level; or
- (2) 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 is securely attached to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(Prior Code, § 22-17; Ord. No. 2330, § 1, 10-10-2023)

Sec. 107-105. Recreational vehicles.

(a) Recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the community's FIRM are required to either:

- (1) Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use; or
- (2) Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this chapter.

(b) 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.

(Prior Code, § 22-18; Ord. No. 2330, § 1, 10-10-2023)

Chapter 108

RESERVED

Chapter 109

IMPACT FEES AND CAPACITY FEES

- Sec. 109-1. Short title.
- Sec. 109-2. Definitions and rules of construction.
- Sec. 109-3. Authority and findings.
- Sec. 109-4. Purpose.
- Sec. 109-5. Applicability.
- Sec. 109-6. Fee amounts.
- Sec. 109-7. Three-year review.
- Sec. 109-8. Annual adjustment.
- Sec. 109-9. Individual assessment.
- Sec. 109-10. Appeal.
- Sec. 109-11. Credits.
- Sec. 109-12. Benefit districts.
- Sec. 109-13. Use of funds.
- Sec. 109-14. Return of fees.

Sec. 109-1. Short title.

This chapter shall be known and may be cited as the "city impact fee ordinance."
(Prior Code, § 23-461; Ord. No. 1363, 8-2005)

Sec. 109-2. Definitions and rules of construction.

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:

Applicant means any person who files an application with the city for a building permit to undertake new development within the city.

Boundaries means where a road right-of-way is used to define benefit district boundaries, that portion of the road right-of-way demarcating the boundary shall be considered as part of the benefit district it bounds.

Building permit. See section 117-100.

Capital budget means the portion of the city's budget that reflects capital improvements scheduled for a fiscal year.

Certificate of occupancy means an official document evidencing that a building satisfies the requirements of the city for the occupancy of a building.

Commencement of land development means and occurs upon any of the following events:

- (1) The issuance of any permit to authorize building or construction of any kind on the property; or
- (2) The issuance of any certificate of occupancy.

Contribution means construction, payment, or dedication of land accepted and received by the city, that increases the capacity of a public facility.

Credit means a reduction in the amount of an impact fee due pursuant to this chapter that:

- (1) Is granted pursuant to an approved reimbursement and validly executed development agreement between the city and the applicant or a previous applicant; and
- (2) Resulted in the provision of excess public facility capacity sufficient to offset the impacts of the proposed new development on public facilities.

Development order means any action by the applicable decision making authority that approves any rezoning, use permit, special-use permit, preliminary plat, final plat, variance, appeal, or any other valid permit or decision that is needed to establish, or is part of a sequence of permits that is needed to establish, an impact generating land development.

Existing impact generating land development means the most intense use of land within the 12 months prior to the time of commencing land development.

Fee payer means a person commencing impact generating land development who is obligated to pay an impact fee in accordance with the terms of this chapter.

Finance director means the finance director for the city, or an authorized designee of the finance director.

Impact fee means a fee that:

- (1) Is imposed on new development as a condition of the issuance of a building permit;
- (2) Is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at city-designated level of service (LOS) standards;
- (3) That provides a roughly proportionate benefit to new development; and
- (4) Is proportionate in amount to actual impact of new development on the public facilities to be funded with the impact fee funds.

Impact generating land development means land development designed or intended to permit a use of the land that:

- (1) Will contain more dwelling units or floor space than the then existing use of the land; or
- (2) The making of any material change in the use of any structure or land in a manner that increases the generation of vehicular traffic or the demand on a public facility.

The type of proposed impact generating land development is based on the proposed use of the land.

Land means the earth, water, and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Level of service means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service is the capacity per unit of demand for each public facility.

Methodology report means:

- (1) A report prepared by Tischler & Associates, Inc., entitled "Development Impact Fees & Utility Capacity Fees" and dated January, 2004, which sets forth the methodology and rational basis for the determination of the impact of new development on public facilities;
- (2) The proper and proportionate amount of the impact fee to be assessed against new development; and
- (3) The mechanisms for ensuring that a rational nexus exists between the fee amount and the impact of new development on public facilities and the roughly proportionate benefits that accrue to new development paying the impact fee.

New development means any construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the city that requires a building permit after the effective date of this chapter, including any change in use of an existing building, structure, or lot that increases the demand for public facilities; except as otherwise provided in section 109-5.

Park or park facility means land and improvements, such as playgrounds, fountains, or swimming pools, used or to be used for recreational purposes by the general public, including both the acquisition of such land, the construction of improvements on the land, and the expenditure of funds incidental to these purposes, including but not necessarily limited to planning, engineering and design of the park and improvements, utility relocation, provision of improvements, utility relocation, provision of pedestrian and vehicular access thereto and purchase of equipment, the need for which are attributable to new residential development. A park facility includes any recreational center such as a fitness center, aquatic center, or related building that provides opportunities for recreation, exercise, or leisure activities for the general public.

Police facility means public facilities, including headquarters, land acquisition, auxiliary buildings, vehicles, and equipment that provide law enforcement services capacity to new development.

Public facility means any capital park, police or sewer facility.

Reimbursement means repayment of impact fees in an amount that fairly reflects the value of public facilities dedicated or constructed by an applicant.

Sewer facility means any sanitary sewer, sewage treatment plant, sewage works, treatment works as defined in section 22-102.

(Prior Code, § 23-463; Ord. No. 1363, 8-2005)

Sec. 109-3. Authority and findings.

- (a) This chapter is adopted pursuant to the authority contained in RSMo chs. 71 and 89.
- (b) Capacity fees are just and equitable charges or rents for the use of the sewers, and that are paid by persons who discharge sewage into the common sewers of the city.
- (c) The city council has reviewed and accepted, and incorporates into this chapter by reference, the report prepared by Tischler & Associates, Inc., entitled "Development Impact Fees & Utility Capacity Fees" and dated January 2004. The foregoing study is hereby adopted, by facility as stated therein, as well as any updates or supplements thereto, including the assumptions, standards, and findings in such studies and their amendments.

(Prior Code, § 23-460)

Sec. 109-4. Purpose.

- (a) This chapter requires all new impact generating land development to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts on public facilities having a rational nexus to the proposed land development for which the need is reasonably attributable to the proposed development.

- (b) This chapter is intended to be consistent with the principles for allocating a fair share of the cost of new public facilities to new users as established by law.

(Prior Code, § 23-462; Ord. No. 1363, 8-2005)

Sec. 109-5. Applicability.

- (a) *Land area.* This chapter applies to the incorporated area of the city.
- (b) *Fee obligation, determination and payment.*
 - (1) After the effective date of the ordinance from which this chapter is derived, any person or governmental body who commences any impact generating land development shall pay an impact fee.
 - (2) The impact fee shall be determined and paid to the city planner at the time of issuance of a building permit or any such approval as may be required to initiate an impact generating land development.
 - (3) If the building permit or other approval is for less than the entire development, the fee shall be computed separately for the amount of development covered by the permit.
 - (4) If the fee is required for impact generating land development that increases impact because of a change in use or the expansion of an existing use, the fee shall be determined by computing the difference in the fee schedule between the new impact generating land development and the existing impact generating land development.
 - (5) The obligation to pay the impact fee runs with the land.
- (c) *Exemptions.* The following development is exempt from the terms of this chapter. An exemption shall be claimed by the fee payer at the time of application for a building permit.
 - (1) Alterations or expansion of an existing building where no additional dwelling units are created, or no additional impact will be made on the demand for public facilities.
 - (2) The construction of accessory buildings or structures which will not increase the demand for public facilities.
 - (3) The replacement of a residential building or structure of the same size and use, as long as no additional dwellings are added as such term is defined by section 101-2.
 - (4) The replacement of a nonresidential building or structure with a building of the same size and use, as long as there is no increase in the demand for public facilities.
 - (5) Any building permit issued pursuant to a final plat that was validly approved as of the date that this chapter was adopted.
 - (6) Any building permit issued pursuant to a final plat, where:
 - a. The preliminary plat was validly approved as of the effective date of the ordinance from which this chapter is derived; and
 - b. A final plat pursuant to the preliminary plat is approved by January 31, 2006, and a building permit or construction must occur by January 1, 2007. If a final plat is not approved by this date, impact fees shall be paid for all building permits for impact generating land development within the proposed subdivision.
 - (7) Public school districts.

(d) *Time of payment.* All impact fees except the police impact fee shall be collected for the shell building at the time of issuance of a building permit, and the police impact fee shall be paid at the time an infill permit is submitted by the tenant.

(e) *Dedication of land or facilities.* Any land or facilities agreed to be dedicated to the city as a condition of development approval shall be dedicated by either easement or deed, at the discretion of the city, no later than the time at which impact fees are required to be paid under this section.

(f) *Fee agreement.* At any time prior to issuance of a building permit, the owner of property may enter into a fee agreement with the city council providing for payment of the fee pursuant to the terms of this chapter.

(Prior Code, § 23-464; Ord. No. 1363, 8-2005)

Sec. 109-6. Fee amounts.

(a) *Fee schedule.* Any person who initiates any new impact generating land development, except those exempted pursuant to section 109-5(c) (exemptions), orthose preparing an individual assessment pursuant to section 109-9, shall pay an impact fee as determined by the fee schedule established by the city council from time to time in section 2-151.

(b) *Mixed uses.* If a building permit is requested for mixed uses, then the fee shall be determined according to the fee schedule by apportioning the space committed to uses specified on the schedule.

(Prior Code, § 23-465; Ord. No. 1363, 8-2005; Ord. No. 2331, § 25, 10-23-2023)

Sec. 109-7. Three-year review.

At least once every three years, the city planner shall recommend to the city council whether any changes should be made to the impact fee schedule to reflect changes in the factors that affect the fee schedule. The purpose of this review is to analyze the effects of inflation on the actual costs of facilities, to assess potential changes in needs, to assess any changes in the characteristics of land uses, and to ensure that the fee charged new impact generating land development will not exceed its pro rata share for the reasonably anticipated expansion costs of facilities necessitated by its presence.

(Prior Code, § 23-466; Ord. No. 1363, 8-2005)

Sec. 109-8. Annual adjustment.

On September 1, 2006, and on September 1 of each year thereafter, the city planner, to reflect inflationary increases in the cost of providing capital facilities, may forward a recommendation for the city council's approval, an adjustment to the impact fee. The adjustment shall be based upon the most recent 20-city annual national average data from the Engineering News Record Construction Cost Index, classified by the cities of like size and region.

(Prior Code, § 23-467; Ord. No. 1363, 8-2005)

Sec. 109-9. Individual assessment.

(a) *Applicability.* One, several, or all components of the impact fee shall be computed by the use of an individual assessment if:

- (1) The city planner determines that the type of impact generating land development being commenced is not one of those types listed on the fee schedule in section 101-11, fee schedule; or
- (2) The potential fee payer chooses to have the amount of the fee determined by the use of an individual assessment.

(b) *Preparation of individual assessment.*

- (1) The potential fee payer shall prepare the individual assessment if the potential fee payer chooses to conduct the analysis.
- (2) The person who prepares the individual assessment shall be a qualified professional in the preparation of impact analysis, and shall be approved by the city planner or a city official (whichever is appropriate), on the basis of professional training and experience.

(c) *Individual assessment standards.* The individual assessment shall determine if the proposed impact generating land development is designed or located so that the development will demand the use of public facilities more or less than that projected in the fee schedule. The city planner or a city official (whichever is appropriate) must approve the methodology in writing prior to the applicant undertaking the individual assessment study.

(d) *Individual assessment procedure.*

- (1) *Submission of application.* An individual assessment shall be undertaken by submitting an application of assessment of fiscal impact for the facility component for which an assessment is requested. A potential fee payer may submit such an application at the fee payer's discretion. The city shall submit such an application for any proposed Impact generating land development interpreted as not one of those types listed on the fee schedule.
- (2) *Determination of completeness.* Within 20 days of receipt of an application, the city planner shall determine if the application is complete. If it is determined that the application is not complete, a written statement shall be sent to the applicant, by mail, specifying the deficiencies. The application shall be deemed complete if no deficiencies are specified. The city planner shall take no further action on the application until it is deemed complete.
- (3) *Review of application.* Within 30 days of the date the application is determined to be complete, the city planner shall review the application and render a written decision on whether the fee should be modified, and if so, what the amount should be.

(e) *Calculation of individual assessment.* If, on the basis of generally recognized principles of impact analysis, it is determined the data, information and assumptions used by the applicant to calculate the individual assessment satisfies the requirements of this section and

the standards in subsection (c) of this section, the fee determined in the individual assessment shall be deemed the fee due and owing for the proposed impact generating land development. The adjustment shall be set forth in a fee agreement which shall be entered into pursuant to section 109-5(f). If the independent fee calculation study fails to satisfy the requirements of this section, the fee applied shall be that fee established in the fee schedule pursuant to section 101-11.

(Prior Code, § 23-468; Ord. No. 1363, 8-2005)

Sec. 109-10. Appeal.

(a) *Application.* A potential fee payer affected by the decision on an individual assessment may appeal the decision to the board of adjustment pursuant to section 101-173. The city planner shall place the appeal on the board of adjustment's agenda for the next regularly scheduled meeting.

(b) *Board of adjustment's decision.* In making its decision, the board of adjustment shall make written findings of fact and conclusions of law, and apply the standards in section 109-9(c), individual assessment standards. If the board of adjustment reverses the administrative decision, it shall direct the city planner to recalculate the fee in accordance with its findings. In no case shall the board of adjustment negotiate the amount of the fee or waive the fee. The decision of the board of adjustment shall be final.

(Prior Code, § 23-469; Ord. No. 1363, 8-2005)

Sec. 109-11. Credits.

(a) *Generally.*

(1) *Application.* Any person who shall initiate any impact generating land development may apply for a credit against any impact fee that is required to be paid pursuant to this chapter for any contribution for the capital facilities subject to an impact fee, including any contribution:

- a. Made pursuant to a development agreement; or
- b. Required by a development order.

(2) *Amount of credit for each component.* The credit provided for each component shall not exceed the total amount of the impact fees due and payable for the public facility for which the credit is proposed.

(3) *Transferability.* Credit for contributions, payments, construction or dedications of an impact fee component shall not be transferable to another public facility. Credits are transferable within the same public facility and within the same development. (For example, a contribution to a park will not be credited toward an impact fee for police facilities.)

(b) *Value of credit.*

- (1) *Generally.* For any contribution, payment, construction or dedication of land for public facilities, a credit shall be provided for 100 percent of the fair market value of such contribution, payment, construction or dedication.
- (2) *Establishment of fair market value.* Credit shall be in an amount equal to fair market value of the land dedicated at the time of dedication, the fair market value of construction at the time of its completion, or the value of the contribution or payment at the time it is made.

(c) *Credit agreement procedures.*

- (1) *Submission of application.* The determination of any credit shall be undertaken through the submission of an application for credit agreement, which shall be submitted to the administrator.
- (2) *Application contents.* The application for credit agreement shall include the following information:
 - a. If the proposed application involves credit for the dedication of land:
 1. A drawing and legal description of the land;
 2. The appraised fair market value of the land at the date a building permit is proposed to be issued for the impact generating land development, prepared by a professional real estate appraiser who is a member of the member appraisal institute (MAI) or who is a member of senior residential appraisers (SRA); and if applicable;
 3. A certified copy of the development order in which the land was agreed to be dedicated.
 - b. If the proposed application involves construction:
 1. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed state engineer or contractor; and
 2. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for one year after completion of construction, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.

- c. If the proposed application involves a credit for any other contribution or payment:
 1. A certified copy of the development order in which the contribution or payment was agreed;
 2. If payment has been made, proof of payment; or
 3. If payment has not been made, the proposed method of payment.
- (3) *Determination of completeness.* Within five days of receipt of the proposed application for credit agreement, the city planner shall determine if the application is complete. If it is determined that the proposed application is not complete, the city planner shall send a written statement to the applicant outlining the deficiencies. No further action shall be taken on the proposed application until all deficiencies have been corrected or otherwise settled.
- (4) *Review and action.* The city planner shall review the application within 20 days and grant the proposed credit if it meets the standards set forth in subsection (a) of this section.
 - (d) *Provisions in credit agreement.* If the application for credit agreement is approved, a credit agreement shall be prepared and signed by the applicant and the city. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be completed, dedicated, or paid, and any extensions thereof, and the dollar credit the applicant shall receive for the contribution, payment or construction.

(Prior Code, § 23-470; Ord. No. 1363, 8-2005)

Sec. 109-12. Benefit districts.

The city finds and determines that the public facilities that will be provided or expanded pursuant to this chapter provide a benefit to fee payers within any area within the incorporated boundaries of the city. Accordingly, the incorporated area of the city is hereby designated as a benefit district for the impact fees collected pursuant to this chapter. No impact fee collected pursuant to this chapter shall be expended for a public facility that is located outside of the benefit district, or that does not provide capacity that serves or is available to serve a fee payer within the benefit district.

(Prior Code, § 23-471; Ord. No. 1363, 8-2005)

Sec. 109-13. Use of funds.

- (a) *Intent.* Fees collected for each component under this chapter are expressly designated for the accommodation of impacts reasonably attributable to the proposed development.
- (b) *Establishment of trust fund and trust accounts.* There is hereby established the city Impact Fee Trust Fund for the purpose of insuring that the fees collected pursuant to this chapter are designated for the accommodation of impacts reasonably attributable to new impact generating land development. A separate trust fund account shall be established for each public facility for which impact fees are allocated pursuant to this chapter.

(c) *Deposit and management of trust fund.*

- (1) *City.* All fees collected by the city shall be immediately deposited into the appropriate trust account in the city Impact Fee Trust Fund. The term "appropriate trust account" means the account that is attributable to the public facility for which the impact fee was collected. Impact fees shall not be placed in trust accounts or expended for public facilities, or any other purpose, other than the specific public facility category for which the impact fee was collected.
- (2) *Investment of proceeds.* All proceeds shall be invested in an interest bearing account. All income derived from these investments shall be retained in the trust fund until transferred or spent, whichever is appropriate. A record of each trust fund account shall be available for public inspection.

(d) *Limitation on expenditure of fees in trust account.* Proceeds collected pursuant to this chapter shall be spent only on capacity-adding public facilities within the city, the need for which is created by and the provision of which will substantially benefit new impact-generating land development. Impact fee proceeds shall not be appropriated for operation or maintenance costs.

(e) *Annual recommendation for expenditure of fees.* Each year, at the time the annual budget is reviewed, the city planner shall propose appropriations to be spent from the individual trust accounts to the city council which include recommendations for the expenditure of the fee monies. After review of the recommendations, the city council shall approve, modify, or deny the recommended expenditures of the trust account funds. Any amounts not appropriated from the trust accounts together with any interest earnings shall be carried over in the specific trust account to the following fiscal period.

(Prior Code, § 23-472; Ord. No. 1363, 8-2005)

Sec. 109-14. Return of fees.

(a) *Generally.* Any fees collected shall be returned to the fee payer or a successor in interest if the fees have not been spent within seven years from the date the building permit for the development was issued, along with all interest earned. Provided, however, that the city council may by resolution extend for up to three years the date at which fees must be refunded. Such an extension shall be made upon a finding that within such three year period, specific capital improvements are planned and evidenced by the adoption and incorporation into the comprehensive plan, that these capital improvements shall be constructed within the next three years, that these improvements are reasonably attributable to the fee payer's impact generating land development; and that the fees whose time of refund is extended shall be spent for these capital improvements. Fees shall be deemed to be spent on the basis of: the first fee collected shall be the first fee spent.

(b) *Procedure.* The refund of fees shall be undertaken through the following process.

- (1) *Generally.* A refund application shall be submitted within one year following the end of the seventh year from the date on which the building permit was issued on the

proposed development. If the time of refund has been extended pursuant to subsection (a) of this section, the refund application shall be submitted within one year following the end of this extension. The refund application shall include the following information:

- a. A copy of the dated receipt issued for payment of the fee;
 - b. A copy of the certificate of occupancy permit;
 - c. A copy of the receipt issued by the city for payment of the fee; and
 - d. If applicable, evidence that the applicant is the successor in interest to the fee payer.
- (2) *Determination of completeness.* Within 20 days of receipt of the refund application, the city planner shall determine if it is complete. If the city planner determines the application is not complete, a written statement specifying the deficiencies shall be sent by mail to the person submitting the application. Unless the deficiencies are corrected, the city planner shall take no further action on the refund application.
- (3) *Review and decision.* When the city planner determines the refund application is complete, it shall be reviewed within 20 days.
- (4) *Standards.* The refund application shall be approved if it is determined the fee payer or the fee payer's successor in interest has paid a fee which the city has not spent within the period of time permitted under this section. The refund shall include the fee paid plus interest earned.
- (5) *Appeal.* Any fee payer or the fee payer's successor in interest may appeal the decision of a refund application by filing a petition with the city council within 30 days of the decision. In reviewing the decision, the city council shall use the standards established in subsection (b)(4) of this section (standards).

(Prior Code, § 23-473; Ord. No. 1363, 8-2005)

Chapter 110

RESERVED

Chapter 111

INFRASTRUCTURE, PARKING, ETC.

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ARTICLE I. IN GENERAL**Sec. 111-1. Utility ownership and easement rights.**

In any case in which a developer installs or causes the installation of water, wastewater or electrical power and intends that such facilities shall be owned, operated, or maintained by the city, the developer shall transfer to the city the necessary ownership or easement rights to enable the city to operate and maintain such facilities.

(Prior Code, § 23-291)

Sec. 111-2. As-built drawings required.

Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or wastewater line, furnish the city with a copy of such a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

(Prior Code, § 23-301)

Sec. 111-3. Utilities to be consistent with internal and external development.

(a) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water and wastewater lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(b) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

(Prior Code, § 23-300)

Sec. 111-4. Lighting requirements.

(a) Subject to subsection (b) of this section, all public streets, sidewalks, and other common areas or facilities in subdivisions created after the effective date of the ordinance from which this chapter is derived shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas.

(b) To the extent that fulfillment of the requirement established in subsection (a) of this section would normally require street lights installed along public streets, this requirement shall be applicable only to subdivisions located within the corporate limits of the city.

(c) All roads, driveways, sidewalks, parking lots, and other common areas and facilities in unsubdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.

(d) All entrances and exits in substantial buildings used for nonresidential purposes and in two-family or multifamily residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings. (Prior Code, § 23-297)

Sec. 111-5. Electric power.

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (1) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.
- (2) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric supervisor must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

(Prior Code, § 23-298)

Sec. 111-6. Underground electricity.

Underground electric service is an option for developers. The procedures are outlined in the underground electric policy for the city outlined in the Technical Specifications Manual. (Prior Code, § 23-299)

Sec. 111-7. Fire hydrants.

(a) Every development (subdivided or unsubdivided) that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.

(b) The presumption established by this chapter is that to satisfy the standard set forth in subsection (a) of this section, fire hydrants must be located so that all parts of every building within the development may be served by a hydrant. Fire hydrants shall not be more than 400 feet apart in distance by street access. However, the water and wastewater superintendent may authorize or require a deviation from this standard if in his professional opinion another arrangement more satisfactorily complies with the standards set forth in subsection (a) of this section.

(c) The water and wastewater superintendent shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet behind the curbline of publicly dedicated streets that have curb and gutter.

(d) The water and wastewater superintendent shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the fire chief, all hydrants shall have two 2½-inch hose connections and one 4½-inch hose connection. The 2½-inch hose connections shall be located at least 2½ inches from the ground level. All hydrant threads shall be national standard threads.

(e) Water lines that serve hydrants shall be at least six-inch lines, and, unless no other practicable alternative is available, no such lines shall be dead-end lines.

(Prior Code, § 23-302)

Sec. 111-8. Sites for and screening of dumpsters.

(a) Every development that, under the city's solid waste collection policies, is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

- (1) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way; and
- (2) Constructed according to specifications established by the solid waste collector to allow for the collection without damage to the development site or the collection vehicle.

(b) All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:

- (1) Persons located within any dwelling unit on residential property other than that where the dumpster is located.
- (2) Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster is located, unless such other property is used primarily for purposes permitted exclusively in an M-1 or M-2 zoning district.
- (3) Persons traveling on any public street, sidewalk, or other public way.

(c) When dumpster screening is required under this section, such screening shall be constructed, installed, and located to prevent or remedy the conditions requiring the screening.
(Prior Code, § 23-303)

Secs. 111-9—111-34. Reserved.

ARTICLE II. STREET NAMING, NUMBERING AND ADDRESSING**DIVISION 1. GENERALLY****Sec. 111-35. Definitions.**

The following are terms used to interpret this article. Other definitions that may help in understanding the requirements of this chapter can be found in section 101-2. The following definitions are related specifically to street naming and addressing:

Address means a property location identification including the following elements: number, directional prefix, street name, (unit number, if applicable).

Addressing official means the city mapping technician, E911 board or an authorized representative charged with the administration of these standards.

Baseline means a north-south or east-west line used as a zero starting point for address numbers in a grid system.

Dedicated street means a named or unnamed roadway located on land that is publicly owned and reserved for public access (a.k.a. public dedicated right-of-way).

Directional prefix means a prefix assigned to a street based on its overall direction and its location within a grid system. The directional prefix is not part of the street name, but for addressing and 911 purposes.

Frontage means the direction a building faces, or the point at which a private driveway meets a named roadway.

Grid system means an addressing system whereby address numbers are assigned from a baseline.

Hundred block means an incremental breakdown (one-tenth) of a 1,000 grid.

Street name means the official name of a roadway including a name and a suffix designation.

Suffix designation means a descriptive qualifier at the end of a street name.

Unit number means a number affixed to an address number indicating a separate unit (apartment, suite, etc.) within a building or complex that is assigned a single address.
(Prior Code, § 23-434)

Sec. 111-36. Purpose.

These standards and procedures are established to promote and protect the public health, safety and welfare by providing common and effective methods for assigning street names and addresses. Such methods will assist emergency service agencies, the United States Postal Service and the public in the timely and efficient provision of services to residents and businesses in and around the city.

(Prior Code, § 23-431)

Sec. 111-37. Applicability.

This article shall apply to all lands within the city emergency 911 district. No application for a building permit or subdivision plat shall be approved that contains street names or site addresses that do not comply with the requirements and procedures provided herein. In circumstances where the regulations of this article conflict with those of another ordinance, the stricter shall apply.

(Prior Code, § 23-432)

Sec. 111-38. Goals.

The goals of this article are:

- (1) To provide a street and addressing system to aid emergency service agencies in locating emergency victims with the greatest efficiency;
- (2) To improve the quality of life for residence through easier delivery of mail and services;
- (3) To project a positive and progressive image to residents, prospective residents and developers; and
- (4) To provide an ongoing service assigning addresses to new development.

(Prior Code, § 23-433)

Secs. 111-39—111-64. Reserved.**DIVISION 2. STREET NAMING****Sec. 111-65. Street names.**

All public streets shall be named in accordance with the provisions of this article. All private streets, frontage roads and ingress/egress easements providing the principal means of access to residential, commercial, industrial, and other properties of buildings shall be named.

(Prior Code, § 23-435)

Sec. 111-66. Streets requiring names.

A roadway will be named if it meets at least one of the following conditions:

- (1) If three or more dwelling units or business related buildings exist, or are proposed to be constructed, along the roadway or are served by the roadway.
- (2) If the roadway is maintained by either a municipality or county.

(Prior Code, § 23-436)

Sec. 111-67. Street suffixes.

The following suffixes are suggested for naming a type of roadway. Other suffixes not listed below may be considered, providing they meet valid street suffix abbreviations, as defined by the United States Postal Service (USPS) official suffix guidelines.

Alley (ALY): A narrow land between or behind a row of buildings.

Avenue (AVE): A roadway or thoroughfare in a densely populated area.

Boulevard (BLVD): A street with a median.

Circle (CIR): A cul-de-sac or looped street that begins and circles back to terminate on the same road.

Court (CT): A permanently closed street, not exceeding 1,000 ft, such as a cul-de-sac.

Drive (DR): A curvilinear street.

Highway (HWY): A primary state or federal route, suitable for heavy traffic volume.

Lane (LN): A minor dead-end street or private lane.

Parkway (PKWY): A road with a median reflecting the parkway character.

Pike (PIKE): A primary state or federal route, suitable for heavy traffic volume.

Road (RD): A common roadway, usually in less densely populated areas.

Street (ST): A common roadway, usually in more densely populated areas.

Way (WAY): A minor roadway.

(Prior Code, § 23-437)

Sec. 111-68. Street name assignments.

(a) The approval process for new street names may be initiated as part of any of the following development approval procedures. Applicants for preliminary subdivision plan review are encouraged to seek street name approval as part of the preliminary plat application.

(b) Preliminary plat for major subdivision. Street names may be submitted for approval with a preliminary plat for major subdivision. Approval of the preliminary plat with street names may be given at the time of preliminary plat approval.

(c) Final plat. Approved street names shall be shown on all final plats recorded at the county recorders office.

(d) Minor subdivision. Street names must be submitted for approval with a minor subdivision plat. When recorded, minor subdivision plats must reflect the approved street name.

(Prior Code, § 23-438)

Sec. 111-69. Street name guidelines.

- (a) Duplication of existing street names not permitted. To eliminate potential confusion and delay of emergency response, duplication of street names shall not be permitted. Streets with the same name but different street type designations shall be considered duplicate street names (e.g., Wasson Drive and Wasson Road are duplicates). Proposed street names and name changes shall be compared with existing street names of both the city and county name index to determine if the proposed street name would create a duplicate name.
- (b) Similar or confusing spelling of street names not permitted. To eliminate confusion resulting from diction problems when individuals are reporting street names under stress, similar (text or phonetic) or confusing spelling of street names shall not be approved. The following are examples of the issues described above.

<i>Example</i>	<i>Problem</i>
Stonehenge vs. Stonehedge	Similar Spelling
Rumplestiltskin	Difficult to Spell
Jotunheimen	Obscure
Phunny	Phonetically confusing spelling

(c) Length of street names. Street names of 12 or fewer characters are encouraged to maximize visibility of street signs. New street names shall not contain more than 16 characters, which does not include either the direction (north, east, etc.) or the street type (lane, drive, etc.). Names shall not contain hyphens, apostrophes, or other non-letter characters. New street names shall not contain more than two words, exclusive of direction or street type.

(d) Use of directional indicators in street names. Directional indicators, such as north and west, shall not be included in street name proposals as a prefix or suffix to a street name. Upon acceptance by the E911 mapping department, the appropriate direction indicator shall be added as part of the approval process dependent upon located in relation to the east/west or north/south zero baseline.

(e) No separate name is to be used for a cul-de-sac that provides street frontage for three or less lots or units. The name shall be the same as that of the intersecting street.

(f) In circumstances where a street changes directions abruptly, generally greater than 45 degrees, a new street name shall be assigned.

(Prior Code, § 23-439)

Sec. 111-70. Continuation of street names.

- (a) The assignment of continuous street names, or street names assigned to grid lines, shall be given to new thoroughfares that have the same basic alignment with an existing street.
- (b) To help reduce the total number of names within the system, new street names will not be issued to streets that fall within an address grid line with an established name. New street names can only be issued if a current linear street name cannot be used, or to designated collector and arterial thoroughfares that have a special or unique alignment and configuration.

(c) Street names shall not be changed due to a change in direction of the street, nor shall a new prefix be used for those streets that meet the criteria for using a directional indicator in the street name.

(Prior Code, § 23-440)

Secs. 111-71—111-98. Reserved.

DIVISION 3. ADDRESSING

Sec. 111-99. Addressing agency.

The E911 mapping department shall establish and assign street address numbers in accordance with the guidelines set forth herein. All buildings used for residential, commercial, institutional or governmental purposes shall be provided with an address identifying the building.

(Prior Code, § 23-441)

Sec. 111-100. Address numbering grid.

(a) The purpose of the address numbering grid is to provide a more uniform and orderly spacing of block numbers. Each new subdivision parcel, each pad in a mobile home park, commercial unit, apartment, condominium, or townhouse shall be assigned an address on the street providing access to the parcels. Addresses will be assigned based on a grid system.

(b) The grid system allows a series of numbers to be assigned for approximately every 500 feet. The address grid includes the NW, NE, SW, and SE quadrants of the city and uses primary routes within the city as zero baselines.

(Prior Code, § 23-442)

Sec. 111-101. Address grid baselines.

(a) The city E911 address numbering system shall be on a grid system dividing the address area into quadrants establishing zero baselines from which numbers are assigned. The grid baseline identifies the point at which block numbers will change in increments of 100.

(b) Assigned address numbers under the grid system will ascend numerically from 100 to the north and to the south based on Mount Vernon as the boundary zero baseline for streets that are aligned north and south of Mount Vernon. Streets that are aligned east and west shall be assigned address numbers ascending numerically from 100 to the east and to the west based on Main St. representing the boundary zero baseline.

(Prior Code, § 23-443)

Sec. 111-102. Application of address grid.

Application of the address grid will vary, as few streets run directly north, south, east or west. Most streets run at angles to the cardinal directions and often change direction. The primary consideration for assigning addresses on streets that diverge from the cardinal

directions is the even distribution of address numbers. The grid shall be used to assist in assigning numbers by orienting the grid parallel to the direction of the street. In this manner, an appropriate distance between address numbers can be maintained.

(Prior Code, § 23-444)

Sec. 111-103. Even/odd numbers.

- (a) The north side of east/west streets and the east side of north/south streets shall be assigned odd numbers.
- (b) The south side of east/west streets and the west side of north/south streets shall be assigned even numbers.
- (c) The original odd or even designation shall be continued throughout the drive regardless of change in compass direction.

(Prior Code, § 23-445)

Sec. 111-104. Streets; frequency of numbers.

Every 25 feet of ground or fraction of a lot less than 25 feet fronting upon each street shall have one number. This will yield approximately 400 numbers per mile, 200 odd on one side and 200 even on the other side.

(Prior Code, § 23-446)

Sec. 111-105. Private rights-of-way.

In situations where three or more structures are located on a private, un-named right-of-way, the private drive shall be named. Once a street name has been approved a standard street name sign shall be installed. The structures shall then be numbered according to these principles using the number interval method.

(Prior Code, § 23-447)

Sec. 111-106. Loop or circular streets.

The properties fronting circle streets shall be numbered without regard to the change in direction. Continuous even or odd numbers shall be assigned around the outside, and the appropriate opposite even or odd number shall be assigned continuously around the inside of the circle. In some cases this will result in fewer numbers on the inside of the circle. Adjustments will be made where necessary to provide numbers with similar numeric value for properties which face each other along the street.

(Prior Code, § 23-448)

Sec. 111-107. Corner lots.

When assigning numbers to corner lots, the front door shall be used. When the front door is obscured or if the structure is best reached for emergency purposes by the driveway, assign the property number based on where the driveway falls on the road.

(Prior Code, § 23-449)

Sec. 111-108. Curvilinear streets.

To assign numbers, consideration must be given to the overall direction of the entire street and the pattern of existing and future development. The street numbers shall be determined from the grid axis that is most nearly at a right angle to the overall direction of the street.
(Prior Code, § 23-450)

Sec. 111-109. Single-family lots.

Addresses for single-family dwelling lots shall be assigned consecutively on the odd and even sides of the street.
(Prior Code, § 23-451)

Sec. 111-110. Mobile home parks.

Addresses for home sites in mobile home parks are assigned consecutively on the odd and even sides of the street. A separate street address number shall be assigned for each mobile home pad or lot.

(Prior Code, § 23-452)

Sec. 111-111. Multifamily apartments.

(a) Multifamily housing units, such as apartments and condominiums, will have a separate whole number street address assigned to each individual building. Street addresses shall be assigned based on the normal criteria for assignment.

(b) Within the individual structures, separate dwelling units shall be assigned apartment numbers as secondary location indicators. Structures having multiple levels with dwelling units placed one above another will receive a consecutive whole unit number assigned from the left to right as viewed from the common entrance. The lowest floor shall begin with 101, 102, 103, etc., until all units have been assigned unit numbers. Successively higher floors shall begin with successively higher increments of 100s. The complete official street address for each unit will consist of the street address, street name, and unit number.

(Prior Code, § 23-453)

Sec. 111-112. Commercial development.

Commercial developments shall be numbered just as apartments, with one street address applied to each individual building, with additional addresses for the buildings consisting of suite numbers. Commercial buildings will be numbered with the middle of the building determining the number of the building with offices or businesses in the building numbered as suites (e.g.: 625 E. Mt. Vernon, Suite 34).

(Prior Code, § 23-454)

Secs. 111-113—111-137. Reserved.

ARTICLE III. WATER SERVICE AND SEWAGE DISPOSAL**Sec. 111-138. Regulations on wells, water main extensions.**

(a) It shall be unlawful for anyone to drill a well within the incorporated limits of the city or extend water mains and service without first receiving permission from the city council and meeting all requirements set forth in article II, chapter 22.

(b) If the water source is available to the property owner, then such property owner must discontinue use of his private well and connect to the city water supply; the source being "available" when within 100 feet of said property line.

(c) In any particular case where the property owner can show by reason of exceptional topographical or other physical conditions that the literal compliance with the requirements of subsections (a) and (b) of this section would cause practical difficulty or exceptional and undue hardship, the city council may modify such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of subsections (a) and (b) of this section or the desirable general development of the neighborhood and community in accordance with this Code. Any modification thus granted shall be elaborated upon in the minutes of the city council setting forth the reasons which, in the opinion of the city council, justified the modification.

(d) Where new water service is required, the maximum distance the city will furnish material and labor to install water mains shall be 100 feet beyond the existing water main. Installation of any water main beyond abovementioned 100 feet shall be at the expense of the party desiring water service.

(e) Whenever an extension of the city water department distribution system is necessary in order to serve an applicant whose premises are located within an area served by the city, the city shall extend its water mains along any public highways which are laid out in which grades have been established and which are dedicated to public use within its service area, provided:

(1) Such applicant, requesting extension of the city water distribution system shall execute and deliver, without cost, to the city, such easement indentures as in the opinion of the city are or may be required at the time such extension is made or may be required in the future to extend the water distribution system to an applicant located adjacent to the premises to be served by such extension.

(2) There is deposited with the city a nonrefundable cash deposit which equals in the amount the estimated cost of extending the water distribution system to the applicant. Said amount shall include the cost of a performance bond as well as a one-year maintenance bond on said extension.

(f) Where the provisions of subsection (e) of this section are otherwise satisfied and the applicant concerned has promptly and faithfully performed in the past all contractual obligations with the city and he is desirous of directly constructing at his own expense a water distribution extension rather than depositing estimated costs with the city and having the city

construct such extension, the city council may approve such extension, provided that the authorized agent of the applicant, as shown by an executed power of attorney on file with the city, executes a form of contract acceptable to the city, which, among other provisions, provides that:

- (1) In its entirety the extension is constructed in strict accord with the construction specifications, drawings and plans prepared by or on behalf of the city, and approval of such extension is given by the DNR.
- (2) All work on construction and extension shall be at the applicant sole cost and subject to inspection by and approval of the city; that such construction is in strict accord with the extensions, constructions, specifications, drawings, and plans; and all expenses incurred by the city, as a result of the extension, including but not limited to preliminary engineering, preparation of specifications, drawings, performance bonds, one-year maintenance bond, plans and inspection of construction shall be paid by the applicant.
- (3) That, upon construction being completed to the satisfaction of the city prior to connection of the extension to the existing water distribution system, all right, title and interest therein of the applicant shall be conveyed to the city, free of lien or of any other encumbrance prior to such conveyance, and the city shall be furnished evidence satisfactory to it that the contractor and subcontractors, if any, of the extension have paid and discharged all indebtedness incurred by them, or any of them, for materials furnished or for work and labor done in connection with and performance and completion of the extension project.
- (4) In any particular case where the applicant for water service can show reason of exceptional topographical or other physical conditions that the literal compliance with the requirements of the above provisions would cause practical difficulty or exceptional and undue hardship, the city council may modify such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of the above regulations or the desirable general development of the neighborhood, and community modification thus granted shall be spread upon the minutes of the city council setting forth the reasons which, in the opinion of the city council, justified the modifications.

(Prior Code, § 23-292; Ord. No. 1696, 8-2011)

Sec. 111-139. Wastewater disposal facilities required.

Every principal use and every lot within a subdivision shall be served by a wastewater disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

(Prior Code, § 23-293)

Sec. 111-140. Reserved.

Editor's note—Ord. No. 2331, § 26, adopted October 23, 2023, repealed § 111-140, which pertained to private wastewater disposal systems and derived from Prior Code, § 23-294.

Sec. 111-141. Public wastewater disposal system.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public wastewater disposal system or appurtenance thereof without first obtaining a written permit from the water quality superintendent.

(b) The owner of any house or building, or his representative, shall obtain a wastewater connection permit at city hall before any wastewater construction is started.

(c) Before starting on construction of a house or building connection, the owner, or his representative, shall check with the water quality superintendent to be sure of the location of the tee joint provided for their particular house or building. In connecting to the tee joint, a trench shall be opened over the tee for a distance of four feet each way, and in the event a tee is not available, a connection shall be made under direct supervision of the water quality superintendent.

(d) All costs and expenses incident to the installation and connection of the building wastewater disposal system shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building wastewater.

(e) A separate and independent building wastewater disposal system shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private wastewater disposal system is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building wastewater disposal system from the front building may be extended to the rear building and the whole considered as one building wastewater.

(f) Old building wastewater disposal systems may be used in connection with new buildings only when they are found on examination and test by the water quality superintendent to meet all requirements of this article.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface run-off or groundwater to a building wastewater or building drain which in turn is connected directly or indirectly to a public sanitary wastewater.

(h) The connection of the building wastewater into the public wastewater shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city as set out herein. All connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the water quality superintendent before installation.

(i) The applicant for the building wastewater permit shall notify the water quality superintendent when the building wastewater is ready for inspection and connection to the public wastewater. The connection shall be made under the supervision of the water quality superintendent or his representative.

(j) All excavations for building wastewater installation shall be adequately guarded with barricades and lights 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.

(Prior Code, § 23-295)

Sec. 111-142. Extension of wastewater lines.

(a) Whenever an extension of the city wastewater department distribution system is necessary in order to serve an applicant whose premises are located within an area served by the city, the city shall extend its water mains along any public highways which are laid out in which grades have been established and which are dedicated to public use within its service area, provided:

- (1) Such applicant, requesting extension of the city wastewater distribution system shall, execute and deliver, without cost, to the city, such easement indentures as in the opinion of the city are, or may be, required at the time such extension is made or may be required in the future to extend the wastewater distribution system to an applicant located adjacent to the premises to be served by such extension.
- (2) Upon there being deposited with the city a nonrefundable cash deposit which equals in the amount the estimated cost of extending the wastewater distribution system to the applicant, said amount shall include the cost of a performance bond as well as a one-year maintenance bond on said extension.

(b) Where the provisions of subsection (a) of this section are otherwise satisfied and the applicant concerned has promptly and faithfully performed in the past all contractual obligations with the city and he is desirous of directly constructing at his own expense a wastewater distribution extension rather than depositing estimated costs with the city and having the city construct such extension, the city council may approve such extension, provided that the authorized agent of the applicant, as shown by an executed power of attorney on file with the city, executes a form of contract acceptable to the city, which, among other provisions, provided that:

- (1) In its entirety, the extension is constructed in strict accord with the construction specifications, drawings and plans prepared by or on behalf of the city, and approval of such extension is given by the DNR.
- (2) All work of construction and extension shall be at the applicant sole cost and subject to inspection by and approval of the city, that such construction is in strict accord with the extensions, constructions, specifications, drawings, and plans, and all expenses incurred by the city as a result of the extension, including but not limited to preliminary engineering, preparation of specifications, drawings, performance bonds, one-year maintenance bond, plans and inspection of construction shall be paid by the applicant.
- (3) That, upon construction being completed to the satisfaction of the city prior to connection of the extension to the existing wastewater distribution system, all right, title and interest therein of the applicant shall be conveyed to the city, free of lien or of any other encumbrance prior to such conveyance, and the city shall be furnished evidence satisfactory to it that the contractor and subcontractors, if any, of the

extension have paid and discharged all indebtedness incurred by them, or any of them, for materials furnished or for work and labor done in connection with and performance and completion of the extension project.

- (4) In any particular case where the applicant for wastewater service can show reason of exceptional topographical or other physical conditions that the literal compliance with the requirements of the above provisions would cause practical difficulty or exceptional and undue hardship, the city council may modify such requirements to the extent deemed just and proper, so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of the above regulations or the desirable general development of the neighborhood and community. Modification thus granted shall be spread upon the minutes of the city council setting forth the reasons which, in the opinion of the city council, justified the modifications.

(Prior Code, § 23-296)

Secs. 111-143—111-167. Reserved.

ARTICLE IV. SITING OF WIRELESS COMMUNICATIONS FACILITIES*

Sec. 111-168. Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the City of Nixa's authority concerning the placement, construction and modification of wireless telecommunications facilities. The city finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the city and its inhabitants. The city also recognizes that facilitating the development of wireless service technology can be an economic development asset to the city and of significant benefit to the city and its residents. To ensure that the placement, construction or modification of wireless telecommunications facilities is consistent with the city's land use policies, the city is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of [the] local ordinance [from which this article is derived] is to minimize the impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, protect the health, safety and welfare of the City of Nixa and to comply with applicable law, including the Federal Telecommunications Act of 1996 and the Missouri Uniform Wireless Communication Infrastructure Deployment Act.

(Ord. No. 1996, § I, 5-29-2018)

***Editor's note**—Ord. No. 1996, § I, adopted May 29, 2018, amended Art. IV in its entirety to read as herein set out. Former Art. IV, §§ 111-168—111-181, pertained to telecommunication towers, and derived from Prior Code, § 23-391—23-403; Ord. No. 1919, 12-19-2016.

Sec. 111-169. Severability.

(a) If any word, phrase, sentence, part, article, section, subsection or other portion of this article or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion or the proscribed application thereof shall be severable and the remaining provisions of this article and all applications thereof not having been declared void, unconstitutional or invalid shall remain in full force and effect.

(b) Any special use permit issued under this article shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority or is overturned by a competent authority, the permit shall be void in total, upon determination by the city.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-170. Definitions.

For purposes of this article and where not inconsistent with the context of a particular article, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this article. When not inconsistent with the context, words in the present tense include future tense, words used in the plural number include words in the singular number and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

Accessory facility or equipment means an accessory facility or equipment serving or being used in conjunction with wireless telecommunications facilities or wireless support structure and located on the same property or lot as the wireless telecommunications facilities including, but not limited to, utility or transmission equipment storage sheds, power supplies, generators, batteries, cables, buildings or cabinets.

Antenna means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Applicant means any person or entity submitting an application to receive a special use permit for wireless telecommunications facilities.

Application means all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

Authority means each state, county and municipal governing body, board, office of commission authorized by law and acting in its capacity to make legislative, quasi-judicial or administrative decisions relative to zoning or building permit review of an application. The term shall not include state courts having jurisdiction over land use, planning, or zoning decisions made by an authority.

Base station means a station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics and includes a structure that supports or houses an antenna, a transceiver, coaxial cables, power supplies or other associated equipment.

Building permit means a permit issued by the city prior to commencement of work on the collocation or replacement of wireless facilities on the existing structure, the substantial modification of a wireless facility or wireless support structure, or the commencement of construction of any new wireless facility or wireless support structure, to ensure that the work to be performed by the applicant satisfies the city's applicable building codes.

Colloaction means the placement or installation of a new wireless facility on a structure that already has an existing wireless facility, including electrical transmission towers, water towers, buildings and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.

Commercial impracticability or *commercially impracticable* means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercial impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

Commission means the planning and zoning commission of the City of Nixa.

Completed application means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

Council means the city council of the City of Nixa.

Disguised support structure means any freestanding, manmade structure designed for the support of wireless facilities, the presence of which is camouflaged or concealed as an architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include, but are not limited to, clock towers, campaniles, observation towers, pylon sign structures, water towers, artificial trees, flag poles and light standards. For purposes of this definition, a structure "camouflaged or concealed as an appropriately placed and designed architectural or natural feature" shall meet the following additional criteria:

- (1) It is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located;
- (2) It does not contain distorted proportions, size or other features not typically found in the type of structure or feature to which it is designed to replicate;
- (3) It cannot be identified as an antenna or support structure by persons with reasonable sensibilities and knowledge;

- (4) Its equipment, accessory buildings, or other aspects or attachments relating to the disguised support structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated; and
- (5) It is of a height, design and type that would ordinarily occur at the location and neighborhood selected.

Electrical transmission tower means an electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

Equipment compound means an area surrounding or near a wireless support structure within which is located a wireless facility.

Existing structure means a structure that exists at the time a request to place wireless facilities on a structure is filed with the city. The term includes any structure that is capable of supporting the attachment of wireless facilities in compliance with the applicable building codes, National Electric Safety Codes and recognized industry standards for structural safety, capacity, reliability and engineering, including but not limited to towers, building and water towers. The term shall not include any utility pole.

FAA means the Federal Aviation Administration or its duly designed and authorized successor agency.

FCC means the Federal Communications Commission or its duly designated and authorized successor agency.

Height means when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

NIER means non-ionizing electromagnetic radiation.

Person means any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest or any other entity.

Personal wireless facility. See definition for "wireless telecommunications facilities".

Personal wireless services or PWS or Personal Telecommunications Service or PCS shall have the same meaning as defined and used in the 1996 Telecommunications Act.

Repairs and maintenance means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted. This definition does not include substantial modifications.

Replacement means the construction of a new wireless support structure of equal proportions and equal height or such other height that would not constitute a substantial

modification to an existing structure in order to support wireless facilities or to accommodate collocation and includes the associated removal of the preexisting wireless facilities or support structure.

Special use permit means the permit issued by the city prior to commencement of work on the substantial modification of a wireless facility or wireless support structure of the commencement of construction of any new wireless facility or wireless support structure, to ensure compliance with the city's zoning or land use regulations.

State means the State of Missouri.

Stealth or stealth technology means to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Substantial modification means:

- (1) The mounting of a proposed wireless facility on a wireless support structure which, as applied to the structure as it was originally constructed: Increases the existing vertical height of the structure by:
 - a. More than ten percent; or
 - b. The height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
- (2) Involves adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of a wireless support structure more than 20 feet or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable); or
- (3) Involves the installation of more than the standard number of new outdoor equipment cabinets for the technology involved, not to exceed four new equipment cabinets; or
- (4) Increases the square footage of the existing equipment compound by more than 1,250 square feet.

Telecommunication site. See definition for "wireless telecommunications facilities".

Telecommunications means the transmission and/or reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

Telecommunications structure means a structure used in the provision of services described in the definition of "wireless telecommunications facilities".

Temporary means temporary in relation to all aspects and components of this article, something intended to or that does not exist for more than 90 days.

Tower means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

Utility means any person, corporation, county, municipality acting in its capacity as a utility, municipal utility board, or other entity, or department thereof or entity related thereto, providing retail or wholesale electric, natural gas, water, waste water, data, cable television, or telecommunications or internet protocol-related services.

Utility pole means a structure owned or operated by a utility that is designed specifically for and used to carry lines, cables or wire for telephony, cable television electricity or to provide lighting.

Wireless support structure means a structure, such as a monopole, tower or building capable of supporting wireless facilities. The definition does not include utility poles.

Wireless telecommunications facilities means includes a "telecommunications site" and "personal wireless facility". It means a structure, facility or location designed or intended to be used as or used to support antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures, including, but not limited to, buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, "911", personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-171. Overall policy and desired objectives for special use permit.

In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in article IV, the city hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following objectives:

- (1) Requiring a special use permit for any new or substantial modification of a wireless telecommunications facility.
- (2) Implementing an application process for person(s) seeking a special permit for wireless telecommunications facilities.
- (3) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent.

- (4) Promoting and encouraging, wherever possible, the sharing and/or collocation of wireless telecommunications facilities among service providers.
- (5) Promoting and encouraging, wherever possible, the placement, height and quality of wireless telecommunications facilities in such a manner, including, but not limited to, the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- (6) That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city.
- (7) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, (a) being the highest priority and (j) being the lowest priority.
 - a. On existing towers or other structures on city-owned properties;
 - b. On existing towers or other structures on other property in the city;
 - c. A new tower on city-owned properties;
 - d. A new tower on properties in areas zoned for heavy manufacturing (M-2) use;
 - e. A new tower on properties in areas zoned for light manufacturing (M-1) use;
 - f. A new tower on properties in areas zoned for agricultural (AG) use;
 - g. A new tower on properties in areas zoned for highway commercial (HC) use;
 - h. A new tower on properties in areas zoned for general commercial (GC) use;
 - i. A new tower on properties in areas zoned for commercial (NC, CC, O) use;
 - j. A new tower on properties in areas zoned for residential (R-1, R-24, R-3) use.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-172. Exceptions from a special use permit.

- (a) No person shall be permitted to site, place, build, construct, substantially modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this article without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in Article IV, no special use permit shall be required for those non-commercial exceptions noted in section 111-171.

(b) All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before the effective date of this article shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this article.

(c) Any repair and maintenance of a wireless facility or collocation on an existing wireless support structure does not require an application for a special use permit.

(d) All repairs, maintenance or collocation shall require a building permit.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-173. Exclusions.

The following shall be exempt from this article:

- (1) The city's police, public works or other public service facilities owned and operated by the local government.
- (2) Any facilities expressly exempt from the city's siting, building and permitting authority.
- (3) Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multi-channel multi-point distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end-antennas that receive and transmit fixed wireless signals that are primarily used for reception.
- (4) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
- (5) Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11 a,b,g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-174. Building permit required when.

(a) A building permit shall be required for the construction, modification or repair of any wireless facility or wireless support structure that meets the following criteria:

- (1) A substantial modification of an existing wireless facility or support structure;
- (2) The construction of a new wireless communication facility or support structure;
- (3) The collocation or replacement of wireless facilities on an existing structure;
- (4) Wireless facilities or support structures that are mounted to the roof of any existing building, other than a single-family residence, provided that the building was not

constructed primarily for the support of antennae and provided that the height of the facility does not exceed ten feet from its mounting and that such use is not otherwise prohibited in this article.

- (5) The installation of a disguised wireless support structure and related wireless facilities as part of a building or structure that is otherwise allowed in the district in which located.
- (6) Wireless facilities or support structures for the operation of a commercial or public radio television station licensed by the FCC or a legal, state or federal enforcement or emergency agency may be installed as permitted by law in nonresidential zoning districts.
- (7) The installation or mounting of antennae on any electrical transmission towers located in any commercial zoning district of the city.
- (8) Wireless facilities or support structures for the operation of a licensed amateur radio facility within the city. The application must be accompanied by proof that the applicant, or an occupant of the property, is a licensed amateur radio operator.
 - (b) No building permit shall be required for the construction, modification or repair of any wireless facility or wireless support structure that meets the following criteria:
 - (1) Wireless facilities or support structures that are owned and operated by the city in providing police, public works or other public service to the public.
 - (2) Satellite earth stations less than six feet in diameter and receive-only home television antennae, which are allowed as necessary uses in all districts without any building permit.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-175. Application requirements.

- (a) All applicants for a building permit for wireless facilities and/or support structures shall comply with the requirements set forth in this article and the city's currently adopted building code.
- (b) No collocation or replacement of wireless facilities to an existing structure shall occur until the application is reviewed and approved by the city and a building permit issued.
- (c) No construction or substantial modification of wireless facilities or support structures shall occur until the application is reviewed and approved by the city, and a building permit as well as a special use permit have been issued.
- (d) All representations/statements made by the applicant to the city in the application may be relied upon in good faith by the city.
- (e) An application for a wireless facility or support structures shall be signed on behalf of the applicant by a person with knowledge of the contents and the completeness of the information.

(f) Where a certification is called for in this article, such certification shall bear the signature and seal of a registered professional engineer licensed State of Missouri.

(g) In addition to all other required information as stated in this article, all applications for the construction of new wireless facilities or support structures, or for a substantial modification of an existing wireless facility or support structure, shall contain the information hereinafter set forth:

- (1) The name, address, and phone number of the property owner and applicant. If the site has, or is to have, a tower and the owner of the tower is different than the applicant, provide name and address of the tower owner is different than the applicant, provide name and address of the tower owner;
- (2) The postal address and tax map parcel number of the property;
- (3) The zoning district or designation in which the property is situated;
- (4) Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- (5) The location of the nearest residential structure;
- (6) The location, size and height of all existing and proposed structures on the property which is the subject of the application;
- (7) The type, locations and dimensions of all proposed and existing landscaping and fencing;
- (8) The size and centerline height location of all proposed and existing antennae on the supporting structure;
- (9) The number, type and model of the antennae(s) proposed with a copy of the specification sheet;
- (10) A site plan describing the proposed tower and antennae(s) and all related fixtures, structures, appurtenances, and apparatus, including height above preexisting grade, materials, color and lighting;
- (11) Signed documentation to verify that the wireless facility with the proposed installation will be in full compliance with the FCC's rules for radio frequency emissions under 47 CFR § 1.1307(b)(1) or other applicable federal law, as amended;
- (12) A copy of the FCC license(s) applicable for the intended use of the wireless facilities; and
- (13) A copy of the geotechnical subsurface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.
- (14) The applicant will provide written documentation by a qualified individual or organization which shows any proposed new tower or existing structure intended to support wireless facilities is in compliance with FAA rules and regulations, as

amended, and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. All filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

- (15) The applicant shall provide certification with documentation (structural analysis) that the wireless facility tower and foundation and attachments, roof-top support structure, water tank structure, and any other supporting as proposed to be utilized are designed and will be constructed to meet all local, city, state and federal structural requirements for loads, including wind and ice loads.
- (16) If the proposal is for collocation or replacement of a wireless facility on an existing structure, the applicant shall provide written certification of the condition of the structure per ANSI report, Annex E, "Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F" or the most recent edition. The inspection report must be performed every three years for a guyed tower and five years for monopoles and self-supporting towers.
- (17) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.
- (18) An applicant shall submit to the city the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
- (19) The holder of a special use permit shall notify the city of any intended modification of a wireless facility or support structure and shall apply to the city to modify or construct a wireless facility or support structure.
- (20) *Application fees.*
 - a. A non-refundable fee as established in section 2-151 of this Code shall be paid to the city at the time of application for a new support structure or a substantial modification. The fee will cover all administrative and building permit fees.
 - b. A non-refundable fee as established in section 2-151 of this Code shall be paid to the city at the time of application for a collocation on an existing support structure. This fee will cover all administrative and building permit fees.

(Ord. No. 1996, § I, 5-29-2018; Ord. No. 2331, § 27, 10-23-2023)

Sec. 111-176. General conditions for approval.

The general criteria and preference for approving wireless facilities and support structures under this article shall include the following:

- (1) *Building codes and safety standards.* All wireless facilities and support structures shall meet or exceed the standards and regulations contained in applicable federal,

state and local building codes, the National Electric Code and recognized industry standards for structural safety, capacity, reliability, and engineering including the most current standard of "Telecommunication Industry Association 222-G".

- (2) *Regulatory compliance.* All wireless facilities and support structures shall meet or exceed standards and regulations for the FAA, FCC and any other federal or state agency with authority to regulate such facilities and support structures. Should any standards or regulations be amended, then the owner shall bring such facilities and support structures into compliance with the revised standards or regulations within six months of the effective date of the revision unless a different date is established by the controlling agency.
- (3) *Lighting.* Wireless facilities and support structures shall not be illuminated at night unless required by the FAA or other federal or state agencies, in which case, a description of the required lighting scheme will be made a part of the application.
- (4) *Design.*
 - a. The wireless facility, all accessory equipment and support structures should, to the extent reasonably possible, be architecturally and visually compatible with the surrounding buildings, structures, vegetation and/or other uses in the area or likely to exist under the regulations of the zoning district.
 - b. Wireless support structures, except disguised support structures, shall be of a galvanized silver or gray finish.
 - c. Wireless facilities, other than antennae, shall have an exterior finish compatible with the natural or built environment of the site, and shall also comply with such other reasonable design guidelines as may be required by the city.
 - d. Wireless facilities mounted on buildings and other structures shall be designed as disguised support structures and antennas.
 - e. Wireless facilities shall be screened by appropriate landscaping and/or fencing. Wireless support structures shall be surrounded by a landscape strip of not less than ten feet in width and planted materials which will provide a visual barrier to a minimum height of six feet tall and deciduous trees not less than two and one-half inches in caliper at the time of planting. Said landscaping strips shall be exterior to any security fencing. In lieu of the required landscape strip, a minimum of a six foot high decorative masonry fence or wall may be approved by the city upon demonstration by the applicant that an equivalent degree of visual screenings is achieved.
 - f. An access road, turnaround space and on-site parking shall be provided for all locations of wireless facilities and/or support structures to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent possible. Road construction shall at all times minimize ground disturbance and cutting of vegetation. Road grades

shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. Access roads may be compacted aggregate materials with the access roadway shall be hard-surfaced (concrete or asphalt) the length of the existing hard-surfaced roadway's right-of-way or ten feet whichever is greater. Access roadways shall be maintained in good condition.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-177. Visibility and security.

- (a) All wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- (b) Towers shall be maintained in accordance with the requirements of this article.
- (c) If lighting is required, applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- (d) All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:
 - (1) All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
 - (2) Transmitter and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-178. Signage.

Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-179. Lot size and setbacks.

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower

or wireless telecommunications facility structure plus ten percent of the height of the tower or structure or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

- (1) No more than one support structure may be erected on any one lot in the city unless the lot is larger than five acres in which case one additional tower may be installed on the same lot.

- (2) Vehicle and outdoor storage on the site of any wireless facility or support structure is prohibited.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-180. Retention of expert assistance.

The city may hire any consultant and/or expert necessary to assist the city in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-181. Special use permit.

(a) A special use permit shall be required for the construction, erection, enlargement, or substantial alteration of a telecommunication facility in allowed zoning districts.

(b) The city shall undertake a review of an application pursuant to this article in a timely fashion and in accordance with the time limits established by RSMo 67.5090 to 67.5103.

(c) The city will refer any application for a new support structure and/or substantial modification or part thereof to City of Nixa Planning and Zoning Commission for a recommendation.

(d) After the public hearing and after formally considering the application, the commission may recommend approval, approval with conditions or denial of a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in written record. The burden of proof for the granting of the permit shall always be upon the applicant.

(e) The recommendation of the planning and zoning commission shall be immediately forwarded to the city council for final approval. After the public hearing and after formally considering the application, the city council may approve, approve with conditions or deny the special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the applicant.

(f) If the city approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within ten calendar days of the city's action. Except for necessary building permits and subsequent certificates of

compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the city shall be required for the wireless telecommunications facilities covered by the special use permit.

(g) If the city denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten calendar days of the city's action.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-182. Authority to inspect wireless facilities.

In order to verify that the wireless facilities and/or support structures have been placed and constructed in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of the placement, construction, modification and maintenance of such facilities including, but not limited to, towers, antennae and buildings or other structures constructed or located on the permitted site.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-183. Default and/or revocation.

If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this article or of the special use permit, then the city shall notify the holder of the special use permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines. If a violation is not corrected to the satisfaction of the city in a reasonable period of time, the special use permit is subject to revocation.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-184. Removal of wireless telecommunications facilities and/or support structures.

(a) Under the following circumstances, the city may determine that the health, safety, and welfare interests of the city warrant and require the removal of wireless facilities and/or support structures:

- (1) Wireless facilities and/or support structures with a permit that have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days;
- (2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;
- (3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit or any other necessary authorization and the special permit may be revoked.

(b) If the city makes such a determination as noted in [subsection 111-184(a)], then the city shall notify the holder of the special use permit for the wireless telecommunications facilities within ten calendar days that said wireless telecommunications facilities are to be removed, the city may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

(c) The holder of the special use permit or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities and all associated structures and facilities from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the city. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the city.

(d) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the city may order officials or representatives of the city to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

(e) If the city removes or causes to be removed wireless telecommunications facilities and the site to a lawful location within ten days, then the city may take steps to declare the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten days, then the city may take steps to declare the wireless telecommunications facilities abandoned and sell them and their components.

(f) Notwithstanding anything in this article to the contrary, the city may approve a temporary use permit/agreement for the wireless telecommunications facilities no more than 90 days, during which time a suitable plan for removal, conversion or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the city and an agreement to such plan shall be executed by the holder of the special use permit and the city. If such a plan is not developed, approved and executed within the 90 day time period, then the city may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this article. Removal of wireless facilities and/or support structures shall not be a condition of approval of any application.

(Ord. No. 1996, § I, 5-29-2018)

Sec. 111-185. Time to review application for special use permit.

Within 120 calendar days of receiving an application to construct a new wireless support structure, the city shall review the application in light of its conformity with applicable local zoning regulations and make a final decision to approve or disapprove the application. Within this period of time, the city will advise the applicant, in writing, of its final decision.

The city may reject applications not meeting the requirements stated in this article or which are otherwise incomplete. In the case of an incomplete application:

- (1) The city will notify the applicant in writing within 15 calendar days of submission of the application, of the specific deficiencies in the application which, if corrected, would make it complete.
- (2) Upon receipt of such written notice from the city, an applicant may correct the specific deficiencies in the application in the time periods set forth in RSMo 67.5096.4 [and] 67.5100.2. If the applicant fails to correct the deficiencies within the applicable time period, the application will be deemed rejected by the city.
- (3) If the applicant cures any deficiencies within the special use permit application within the time permitted by law, the application shall be reviewed and processed within 120 calendar days from the initial date the application was received. If the applicant requires a period of time beyond 30 calendar days to cure the specific deficiencies, the 120 calendar days' deadline for review shall be extended by the same period of time.

(Ord. No. 1996, § I, 5-29-2018)

Secs. 111-186—111-198. Reserved.

ARTICLE V. OFF-STREET PARKING AND LOADING

Sec. 111-199. 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:

Circulation area means that portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Driveway means that portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Gross floor area means the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Loading and unloading area means that portion of the vehicle accommodation area used to satisfy the requirements of section 111-210.

Parking area aisles means that portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking space means a portion of the vehicle accommodation area set for the parking of one vehicle.

Vehicle accommodation area means that portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading areas, and parking areas (spaces and aisles). (Prior Code, § 23-324)

Sec. 111-200. Purpose.

The purpose of the off-street parking and loading regulations is to encourage the appropriate location of off-street parking and off-street loading to provide the needed levels of service to the citizens of the city. All off-street parking shall be reviewed to ensure the following criteria are met:

- (1) Parking is sufficient to avoid undue congestion on the streets.
- (2) Sufficient parking is available to protect the capacity of the public street system to move traffic.
- (3) Parking is provided in a manner that avoids unnecessary conflicts between vehicles and pedestrians.
- (4) To facilitate the safe access from street to off-street parking lots and structures and off-street loading spaces.

(Prior Code, § 23-323)

Sec. 111-201. Number of parking spaces required.

(a) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(b) The presumptions established by this article are that:

- (1) A development must comply with the parking standards set forth in subsection (e) of this section to satisfy the requirement stated in subsection (a) of this section.
- (2) Any development that does not meet these standards is not in compliance.

(c) When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(d) The city council recognizes that the table of parking requirements set forth in subsection (e) of this section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit issuing authority is authorized to determine the parking requirements using this table as a guide.

(e) Table of required parking.

TABLE OF REQUIRED PARKING

<i>Use</i>	<i>Parking Required</i>
Residential	
Single-Family	Two spaces per dwelling unit plus one space per room rented out.
Two-Family	Two spaces for each dwelling unit, except that one-bedroom units require only one space.
Multifamily	1.5 spaces per dwelling unit. Multifamily units limited to senior citizens require only one space per unit.
Homes emphasizing special services	Three spaces for every five beds except for uses exclusively serving children under 16, in which case one space for every three beds shall apply.
Commercial Sales and Service	
Retail sales and rentals, personal service shops.	One space per 300 square feet of gross floor area.
Commercial shopping plaza	One space per 250 square feet of gross floor area.
Office, professional, medical, and the like	One space per 400 square feet of gross floor area.
Restaurants, bars	One space for every four seats, plus reservoir lane capacity equal to five spaces per drive-in window.
Restaurants, drive-in fast food	One space per 100 square feet of gross floor area, plus lane capacity equal to five spaces per drive-in window.
Vehicle sales and service	One space per 400 square feet of gross floor area
Gas sales	One space per 300 square feet of gross floor area of building, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces and circulation aisles.
Car wash	Conveyer type: one space per every three employees on the maximum shift plus reservoir capacity equal to five times the capacity of the washing operation. Self-service: two spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall.
Hotel, motel, bed and breakfast	One space for each room to be rented.
Dry cleaners	One space per 400 square feet of gross floor area.
Animal services	One space per 300 square feet of gross floor area
Beauty shops, barbershops	2.5 spaces per chair in the establishment
Social clubs	One space per 300 square feet of gross floor area.

<i>Use</i>	<i>Parking Required</i>
Funeral home	One space per 200 square feet of gross floor area.
Day care	One space per employee plus one space per 400 square feet of gross floor area.
Bus station	One space per 200 square feet of gross floor area.
Open air market	One space per 1,000 square feet of lot area used for storage, display or sales.
Greenhouse	One space per 200 square feet of gross floor area.
Education, Religious, Recreation	
Education, elementary	1.75 spaces per classroom
Education, secondary	Five spaces per classroom
Education, trade or vocational	One space per 100 square feet of gross floor area.
Colleges, universities	Ten spaces per classroom
Churches	One space for every four seats.
Libraries	One space per 400 square feet of gross floor area
Bowling alleys	One space for every four occupants based on occupant loads established by the current adopted version of the Building Code.
Movie theaters	One space for every four seats
Drive-in movies	One space for every speaker outlet
Stadiums, auditoriums, gymnasiums, and other facilities with fixed spectator seating.	One space for every four seats
Golf activities	Miniature golf course, par three course: two spaces per golf hole plus one space per 200 square feet of building. Driving range: one space per tee plus one space per 200 square feet of building.
Recreation centers, skating rinks, tennis and racquet ball courts and the like	One space per 300 square feet of gross floor area.
Horseback riding	One space per horse stall.
Manufacturing storage	
Manufacturing, industrial	One space per 1.5 employees, but not less than one space per 550 square feet of gross floor area
Storage and parking	One space for every two employees on the maximum shift but not less than one space per 5,000 square feet of area devoted to storage (whether inside or outside)
Salvage yards	One space per 200 square feet of gross floor area.
Sanitary landfill	One space for every two employees on the maximum shift.
Public, Institutional	

<i>Use</i>	<i>Parking Required</i>
Post office, public buildings	One space per 200 square feet of gross floor area.
Hospital, clinics	Two spaces per bed or one space per 150 square feet of gross floor area, whichever is greater.
Emergency services	One space per 200 square feet of gross floor area
Correctional facilities	One space for every two employees on the maximum shift.

(Prior Code, § 23-325)

Sec. 111-202. Reserved.

Editor's note—Ord. No. 2171, § 3, adopted February 22, 2021, repealed § 111-202, which pertained to number and size of spaces and derived from prior Code, § 23-326.

Sec. 111-203. Parking space dimensions.

Parking space dimensions shall be striped in accordance with the following provisions.

- (1) The first ten spaces and 80 percent of the spaces over and above the first ten must be nine-foot by 19-foot full-size spaces.
- (2) If so desired, 20 percent of the required off-street parking spaces over and above the first ten required spaces can be provided in eight-foot by 16-foot compact spaces.
- (3) All compact spaces must be permanently marked for "compacts only."
- (4) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking areas shall not be less than 22 feet by nine feet.
- (5) Handicapped parking space dimensions shall be nine-foot by 19-foot containing a four-foot access aisle; van-accessible spaces must include an eight-foot-wide access aisle adjacent and parallel to the space.

(Prior Code, § 23-327)

Sec. 111-204. Accessible parking spaces for physically disabled persons.

For all commercial, industrial, and multifamily uses, parking shall be provided for physically disabled persons in accordance with the following schedule:

<i>Total Parking Spaces Provided</i>	<i>Required Minimum Number of Accessible Spaces</i>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

<i>Total Parking Spaces Provided</i>	<i>Required Minimum Number of Accessible Spaces</i>
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
more than 1,000	20 plus one for each 100 over 1,000

(Prior Code, § 23-328)

Sec. 111-205. Required widths of parking area aisles and driveways.

(a) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

PARKING ANGLE

<i>Aisle Width</i>	<i>0 Degrees</i>	<i>30 Degrees</i>	<i>45 Degrees</i>	<i>60 Degrees</i>	<i>90 Degrees</i>
One-way Traffic	13'	11'	13'	18'	24'
Two-way Traffic	19'	20'	21'	23'	24'

(b) Driveway widths in the commercial and industrial districts shall not be more than 35 feet in width when serving an individual property or 48 feet when serving more than one property and shall not in any instance be less than ten feet.

(Prior Code, § 23-329)

Sec. 111-206. General design requirements.

- (a) Unless no other alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one- or two-family dwelling units, although backing onto arterial streets is discouraged.
- (b) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- (c) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such an area onto adjacent properties or public rights-of-way. Accommodation areas adjacent to sidewalks shall include parking blocks so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.
- (d) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
(Prior Code, § 23-330)

Sec. 111-207. Vehicle accommodation area surfaces.

- (a) Vehicle accommodation areas that include lanes for drive-in windows; or contain parking areas that are required to accommodate public vehicular traffic shall be graded and surfaced with asphalt, concrete or other hard surface material.
- (b) All other vehicle accommodation areas shall be graded and surfaced with crushed stone, gravel or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. Bricks, stones, railroad ties, or other similar devices shall define the perimeter of such parking areas. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, to the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in the technical specifications manual for driveway openings for a distance of 15 feet back from the edge of the paved street.
(Prior Code, § 23-331)

Sec. 111-208. Satellite parking.

- (a) If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.

(b) All such satellite parking spaces must be located within 400 feet of the use or building which is the subject of an application for joint use of parking.

(c) The developer wishing to take advantage of the provisions of this section must present satisfactorily written evidence that he has permission of the owner or other persons in charge of the satellite parking spaces to use such spaces. The written evidence shall at a minimum consist of a perpetual, mutual parking/access easement submitted for review by the city planner and duly filed and recorded with the county recorder; said easement shall include a specific time schedule for the availability of parking by use. The demand for available parking created by each of the uses must occur at separate times, thereby eliminating a conflict of need.

(d) Persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article.

(Prior Code, § 23-332)

Sec. 111-209. Special provision for lots with existing buildings.

Notwithstanding any other provisions of this chapter, whenever there exists a lot with one or more structures on it constructed before the effective date of the ordinance from which this chapter is derived, and a change in use that does not involve any requirements of section 111-201 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can be used practically for parking, then the developer need only comply with the requirements of section 111-201 to the extent that parking space is available on the lot where the development is located, and satellite parking space is reasonably available as provided in section 111-208. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

(Prior Code, § 23-333)

Sec. 111-210. Loading and unloading areas.

(a) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if necessary to satisfy the foregoing standard.

<i>Gross Leaseable Area of Building</i>	<i>Number of Spaces*</i>
1,000—19,999	1

<i>Gross Leaseable Area of Building</i>	<i>Number of Spaces*</i>
20,000—79,999	2
80,000—127,999	3
128,000—191,999	4
192,000—255,999	5
256,000—319,999	6
320,000—391,999	7
Plus one space for each additional 72,000 square feet or fraction thereof.	

*Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

- (c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can perform all maneuvering and staging on the lot without using the public right-of-way.
- (d) No area allocated to loading and unloading facilities may be used to satisfy the area requirement for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- (e) Whenever:
 - (1) There exists a lot with one or more structures on it constructed before the effective date of the ordinance from which this chapter is derived;
 - (2) A change in use that does not involve any enlargement of a structure is proposed for such lot; and
 - (3) The loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can be used practically for loading and unloading;

then the developer need only comply with this section to the extent reasonably possible.
(Prior Code, § 23-334)

Chapter 112

RESERVED

Chapter 113

SIGNS

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ARTICLE I. IN GENERAL**Sec. 113-1. 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:

Abandoned sign means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner product or activity or for which no legal owner can be found for a period of 90 days.

Animated sign means any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Approved wall area means any one of the following:

- (1) For a building containing one use, any exterior wall having visibility from or abutting a publicly dedicated street or any exterior wall facing the parking lot of the use.
- (2) For a building containing two or more uses:
 - a. Any exterior wall or one individual use that has a primary public entrance and exit; or any exterior wall of one individual use on or below the first story which faces an abutting a publicly dedicated roadway, alley or the customer parking lot of the building.
 - b. Any substantial difference in the building plane on the facade of the building shall be eligible for consideration as a separate approved wall area.

Awning sign means a wall sign that is painted, stitched, sewn or stained onto the exterior of an awning. An awning is a shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

Balloons means any number of sizes of balloons used to draw attention to a business.

Banner means any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Billboard means an off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

Building identification sign means a sign stating the name of a building or identifying the major tenant of a building.

Building marker means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Center identification sign means a sign, which states only the name of such developments as shopping centers, business parks or similar uses.

Changeable copy sign means a permanent sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this chapter.

Commercial message means any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

Community event sign or banner means a city, county, state or school district event advertisement erected 30 days prior to the event and removed 24 hours after the event, not to exceed 32 square feet.

Construction sign means a sign that advertises the future use or occupancy of a parcel or a building or buildings or subdivision under construction. Such sign may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information, including but not limited to sale or leasing information.

Election sign means a sign that identifies candidates or issues on the ballot in an upcoming election.

Feather banner means a free standing temporary sign that is made of lightweight, non-rigid material typically supported by one pole, with or without graphics, intended to attract instant attention.

Flag means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol. National flags, state or municipal flags shall be exempt from this section.

Freestanding sign means a sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign," is also a freestanding sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

Grand opening signage means a sign that advertises the official opening of a business or a new location. Signage is allowed to be displayed, without permit, for one week within the first month that the business is open.

Height of sign means the vertical distance measured from the finish grade on the parcel adjacent to the pole or structure to the uppermost point of the sign or structure sign is located.

Holiday decorations means signs in the nature of ornamentation which are clearly incidental and commonly associated with any national, local or religious holiday.

Ideological sign means any noncommercial sign which expresses a religious political, social or other philosophical message.

Incidental sign means a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

Internally illuminated signs means signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that:

- (1) Are filled with neon or some other gas that glows when an electric current passes through it; and
- (2) Are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message; shall also be considered internally illuminated signs.

Joint identification sign means a sign that serves as a common or collective identification for two or more businesses or other nonresidential uses on the same lot or parcel.

Marquee sign means any sign attached to or made a part with manual or electronically changeable copy.

Memorial sign means a sign or tablet identifying a site, structure or building which may include, but is not limited to names and/or dates of construction, use or historical designation.

Nonresidential use means any single use that does not include an area designed as a dwelling unit as the principal use.

Off-premises sign means a sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious or other noncommercial message shall also be an off-premises sign.

On-premises sign means a sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

On-site daily advertisement sign means a maximum four-foot-square sign used for advertising daily sales and or services to be installed and removed during the normal work day hours.

Pennant means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Pet signage means a lost pet sign posted with a description of the pet, the date of posting, the owner's name address and telephone number, not to exceed seven days. No sign shall be posted on a city utility pole.

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Principal building means the building in which is conducted the principal use of the zone lot on which it is located.

Project identification sign means a sign stating the name of a subdivision, phase of subdivision or otherwise identifying a residential housing project. A realtor having exclusive marketing rights of said parcel may attach a reality sign to the project identification sign.

Projecting sign means any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Public sign means any given information about public places owned and operated by federal, state, county local or other governmental entity which is required by law or is necessary for public information.

Real estate sign means a sign, which advertises the sale, rental or lease of the land, or building upon which the sign is located.

Residential sign means any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of chapter 117.

Roof sign means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof sign, integral, means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Setback means the distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.

Sight distance triangle means a triangular shaped portion of land established at street intersections and street driveway intersections in which nothing may be erected, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of persons entering or leaving the intersections.

Sign means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Sign area means the square footage of all that area within the outside dimension of the sign, not including support structures. In the case where letters or symbols are attached directly to a wall or structure with no other background, the sign area shall be the square footage contained within the smallest single continuous perimeter of no more than eight straight lines. When a sign has two parallel display faces, the area of one face shall be the total sign area; however, when a sign face is not parallel and is V-shaped, where the distance separation is greater than five feet, the area of all faces shall be included in determining the total sign area. All riders or attachments to signs or sign structure, whether temporary or permanent, shall be included in determining the total sign area.

Street frontage means the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

Suspended sign means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary sign means a sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign. Temporary signs are limited to 2 per calendar year, with each permit lasting 30 days.

Window sign means any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Yard/garage sale sign means a sign that advertises the location of a yard or garage sale of personal property.

(Prior Code, § 23-317; Ord. No. 1810, 1-21-2014)

Sec. 113-2. Scope.

All signs and sign support structures shall conform to the requirements of this chapter and all other applicable provisions of this Code. When confronted with an infraction of the city's sign code regulations, the code administrator shall present a business card to identify himself and assist in making inquiries relative to the city's sign code.

(Prior Code, § 23-311)

Sec. 113-3. Purpose.

The purpose of this title is to promote the public safety and welfare:

- (1) To improve the visual environment and foster economic development while providing adequate standards for meeting sign owners needs;
- (2) To benefit the public and sign owners through improved sign legibility, readability and visibility;
- (3) To provide equal opportunity for the display of commercial messages;
- (4) To ensure the design, construction, installation, repair and maintenance of signs will not interfere with traffic safety, or otherwise endanger public safety;
- (5) To ensure that city rights-of-way are not appropriated to private use or used in a manner inconsistent with the public interest;
- (6) To reduce incompatibility between signs and their surroundings;
- (7) To ensure that an adequate opportunity will be available to sign users without dominating the visual appearance of the area.

(Prior Code, § 23-312)

Sec. 113-4. Conflicts with other provisions.

Nothing contained herein shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances and/or applicable regulations shall comply with all such ordinances and regulations. If there is a conflict between this chapter and any other ordinance or regulation, the more stringent shall apply.

(Prior Code, § 23-313; Ord. No. 1526, 3-10-2008)

Sec. 113-5. Nonconforming signs.

(a) Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of the ordinance from which this chapter is derived may be continued until they are required to be removed under this section.

(b) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no conforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.

(c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this chapter.

(d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformance with all the provisions of this chapter, and remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.

(e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformance (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(f) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed 50 percent of the value (appraised or tax value if listed for tax purposes) of such sign.

(g) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over the sign.

(h) If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is blank if:

- (1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
- (2) The advertising message it displays becomes illegible in whole or substantial part; or
- (3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(Prior Code, § 23-322)

Secs. 113-6—113-28. Reserved.

ARTICLE II. PERMITS

Sec. 113-29. Display of signs; permit required.

(a) No sign shall be displayed in the city limits until the city has issued a permit for it, unless it is exempt from a permit in accordance with section 113-31. No permit shall be issued unless the applicant demonstrates that the proposed sign meets the requirements of this Code.

All face changes, except changeable copy signs, shall require a permit. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration. Minimum submittal requirements and sign permit applications are available in the planning and development department, www.nixa.com/planning and development/building.

(b) If plans submitted for an approved use permit, special use permit, or preliminary plat include sign plans in sufficient detail that the permit-issuing authority can determine whether the proposed sign or signs comply with the provisions of this chapter, then issuance of the requested approved use permit, special use permit, or preliminary plat shall constitute approval of the proposed sign or signs.

(c) No sign except a public sign shall be located on any city-owned utility pole or within public rights-of-way.

(Prior Code, § 23-314; Ord. No. 1526, 3-10-2008)

Sec. 113-30. Permits to be withheld; illegal or prohibited signs on parcel.

When a sign permit is requested for a parcel where illegal or prohibited signs exist, no sign permit shall be issued until all such signs are removed or brought into conformance with this chapter.

(Prior Code, § 23-315)

Sec. 113-31. Signs exempt from permit.

(a) The following nonilluminated signs may be erected in compliance with this chapter without the issuance of a sign permit. Such signs may be permitted in addition to all other signs permitted and shall conform to setbacks, placement requirements and other physical characteristics.

- (1) Community event signs;
- (2) Construction signs;
- (3) Election signs;
- (4) Public signs;
- (5) Ideological signs;
- (6) Memorial signs;
- (7) Flags;
- (8) Pet signage;
- (9) Holiday decorations;
- (10) Incidental signs;
- (11) Window signs;
- (12) Church identification, bulletin boards;
- (13) Licensed and operable motor vehicles with signs and attached/applied;

- (14) On-site daily advertisement sign during normal working day;
- (15) Grand opening signage (displayed a maximum of one week.)
- (b) The following temporary event signs may be located without issuance of a permit for a 48-hour period:
- (1) Off-site real estate directional sign;
 - (2) Commercial real estate signs;
 - (3) Help wanted;
 - (4) Auction signage, estate type sales only;
 - (5) Garage sale signage. (A maximum of four signs per dwelling address, twice per year, with each sale lasting no more than three consecutive days. The city wide garage sale is in addition to the two annual garage sale events.)
- (c) Signage falling within the above categories, except an off-site real estate sign, which can be posted Friday afternoon and removed Monday morning, may be erected off-site for a period not to exceed 48 hours. The signs may be no larger than two feet by two feet with a maximum height of three feet from the ground level. In addition to advertising language, the signs shall contain the date and location of the event. All pet, auction and garage sale signs must include a phone number where the sign owner can be reached. Property owner permission must be obtained prior to locating a sign off-site. Signs may be placed within the city right-of-way. Placement shall not be allowed within the sight triangle of an intersection as defined in section 105-30(b). Signs left longer than 48 hours shall be in violation of this section and shall be removed by the city. The fine for violation of this section shall be \$50.00. No placement of signs as defined in this section shall occur in the Highway 160 corridor or on any city-owned utility pole.

Commercial Zones CC, NC, GC, HC, O

<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Sign Separation</i>
General Advertising	1' or equal to height of sign if taller than 6'	15': CC&O21: NC&GC 35': HC	100 :CC&O200:NC&GC 400: HC	1 per street frontage per parcel; plus one additional sign per street frontage in excess of 500'	Permanent	Yes	50' between signs on separate frontages; 200' when on same frontage

<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Sign Separation</i>
Center I.D.	1' or equal to height of sign if taller than 6'	15': CC&O21: NC&GC 35': HC	100: CC&O2 00:NC&GC 400: HC	1 per street frontage per parcel; plus one additional sign per street frontage in excess of 500'	Perma-nent	Yes	50' between signs on separate frontages; 200' when on same frontage
Construction	10'	15': CC, O, NC, GC, HC	32	1 per street frontage per parcel, maximum of five with four at two square foot each plus one additional sign per street frontage in excess of 500'	Comple-tion of project	No	50' between signs on separate frontages; 200' when on same frontage
Election	10'	6' in all zones	32	Unlimited	10 days after any election, unless winner of primary	No	N/A
Feather Banner	10'	8'	16	1 per street frontage	30 days (2 permitted per calendar year.)	No	N/A

SIGNS

§ 113-31

<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Sign Separation</i>
Ideological	10'	6' in all zones	32	1 per issue per street frontage	Perma-nent	No	N/A
Joint I.D.	1' or equal to height of sign if taller than 6'	15': CC&O21': NC &GC35': HC	100:CC &O2 00:NC&GC 400:HC	1 per street frontage per parcel plus one additional sign per street frontage in excess of 500'	Perma-nent	Yes	50' between signs on separate frontages; 200' when on same frontage
Memorial	5'	6'	12	1 per street frontage per site	Perma-nent	Yes	N/A
On-Premises	1'	8'	6	As approved by the city through review process	Perma-nent	Yes	N/A
As needed for convenience of the public or permitted by law							
Real Es-tate	10'	10'	32	1 per street frontage per parcel, plus one sign per frontage in excess of 500'	Comple-tion of sale	No	50' between signs on separate frontages; 200' when on same frontage

<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Sign Separation</i>
Project I.D.	Equal to height of sign	8'	100	1 per major entrance, maximum of 4	Permanent	Yes	300'
Temporary	Equal to height of sign	15': CC&O21': NC&GC30' : HC	75	1 per street frontage	30 days (2 permitted per calendar year.)	No	50' between signs on separate frontages; 200' when on same frontage
Portable	1'	5'	15	1	30 days in any 6 month period	No	N/A

Industrial Zones M-1, M-2

<i>Freestanding</i>						
<i>Style</i>	<i>Minimum Front Set-back</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
General Advertising	1' if 6' height, otherwise equal to sign height	25' or building height, whichever is less	100	1 per street frontage	Permanent	Yes
Center I.D.	1' if 6' sign height, otherwise height of sign	25' or building height, whichever is less	100	1 per street frontage	Permanent	Yes
Construction	10'	10'	32	1 per street frontage, maximum 4	Completion of project	No

SIGNS

§ 113-50

<i>Freestanding</i>						
<i>Style</i>	<i>Minimum Front Set-back</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
Election	10'	10'	32	Unlimited	Removal within 10 days after election, unless winner of primary	No
Feather Banner	10'	8'	16	1 per street frontage	30 days (2 permitted per calendar year.)	No
Public	As needed for convenience of the public or permitted by law					
Real Estate	1' if 6' height, otherwise equal to sign height	10'	32	1 per street frontage	Completion of sale	No
Project I.D.	10'	10'	50	2 per major entrance	Permanent	Yes
Portable	1'	5'	15	1	30 days in any six-month period	Internal
Billboard	Equal to height of sign	25'	600	1 per 500 linear feet of frontage	Permanent	Yes

(Prior Code, § 23-316; Ord. No. 1526, 3-10-2008; Ord. No. 1810, 1-21-2014)

Secs. 113-32—113-50. Reserved.

ARTICLE III. RESTRICTIONS AND REQUIREMENTS**Sec. 113-51. Number of signs limited.**

No one use may have more than four signs per street frontage, and no one use shall exceed a maximum number of five signs, not to include on-site directional signs. The following number of each type of sign is allowed for any one use, provided that the maximum number of five signs is not exceeded:

- (1) No more than one projecting sign;
- (2) No more than one freestanding sign, except as permitted per section 113-52.
- (3) Pedestrian-oriented under-awning or under canopy signs and signs exempt from permit per section 113-31 are not counted toward the maximum.
- (4) Multiple-use buildings. If there is more than one business in a building or if the buildings in a group are associated by ownership, joint identification or center identification signs are the only freestanding signs permitted.
- (5) Second tier signage. Second tier commercial properties located in the HC (highway commercial) district may co-locate on freestanding signage under the following circumstances:
 - a. Second tier properties are those located directly behind highway frontage properties located in the HC (highway commercial) zoned district. Those properties sharing a common property line (exclusive of street ROW) shall be considered second tier properties.
 - b. The collocation of off-site freestanding signage can only occur on the highway frontage property located directly in front of the second tier property.
 - c. The number of freestanding signs allowed on the frontage property shall remain the same. The collocation of second tier signage on frontage property shall be at the sole discretion of the frontage property owner. A letter of authorization shall accompany applications for use of a highway frontage sign by second tier properties from the frontage property owner.
 - d. The overall height and square foot limitation imposed on the HC (highway commercial) zoned district shall remain the same. The combined total of all square feet of signage located on a freestanding sign shall not exceed 400 square feet with a maximum height of 35 feet.

(Prior Code, § 23-318)

Sec. 113-52. Permitted signs by zoning district.

Types of signs permitted in the respective zoning districts of the city are as follows: hc;; Residential Zones R-1, R-4, R-3

SIGNS

§ 113-52

<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Off-site</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
Nonresidential	Equal to height of sign	6'	16	No	1 per street frontage	Perma-nent	No
Construction	20'	10'	32	No	1 per street frontage per parcel, maximum of five with four not to exceed four square feet each; plus one additional sign per street frontage in excess of 500 L.Ft.	Comple-tion of Project	No

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<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Off-site</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
Election	1'	6'	8	N/A	Unlimited	10 days after election, unless winner of primary	No
Ideological	1'	6'	8	N/A	1 per street frontage	Permanent	No
Memorial	5'	6'	12	N/A	1 per street frontage	Permanent	No
Public	As needed for convenience of the public or permitted by law						Yes
Real estate (off-site)	Equal to height of sign	2	2, having an arrow & words "Real Estate"	Yes, with property owner's permission	1 per intersection	Completion of sale	No
Real estate, single-family	1'	4'	4	Open house only with property owner's permission	1 per street frontage	Completion of sale	No
Real estate, multifamily	10'	8'	32	Open house only with property owner's permission	1 per street frontage	Completion of sale	No

<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Off-site</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
Project I.D.	Equal to height of sign	8' *** see note	16	No	2 per entry	Permanent	Yes
Yard Sale	1'	4'	8	Private property with owner's permission	1 per street frontage	1 hour after completion of sale	No

*** Permanent Project I.D. signs identifying a specific section of a subdivision mounted on a single pole may be 24 inches in width and 36 inches in height. Setback shall be the same as a street identification sign.

Residential Zones R-1, R-4, R-3

<i>Wall</i>					
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
Nonresidential	15' or top of 1st floor wall, whichever is less	16	One	Permanent	No
Construction	15' or top of 1st floor wall, whichever is less	32	One	Completion of project	No
Nonresidential	15' or top of 1st floor wall, whichever is less	16	One	Permanent	No
Construction	15' or top of 1st floor wall, whichever is less	32	One	Completion of project	No

<i>Wall</i>					
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
Election	10'	8	Unlimited	10 days after election, unless winner of primary	No
Memorial	8'	2	One	Permanent	Yes
Project I.D.	15' or top of 1st floor wall, whichever is less	35	1 per street frontage	Permanent	Yes
Public	As needed for convenience of the public or permitted by law				Yes
Real Estate, Single-family	8'	4	One	Completion of sale	No
Real Estate, Multifamily	8'	8	One	Completion of sale	No
Tenant I.D.	8'	8"×48" for each business/tenant	One	Permanent	Yes

Commercial Zones CC, NC, GC, HC, O

<i>Style</i>	<i>Freestanding</i>						
	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Sign Separation</i>
General Advertising	1' or equal to height of sign if taller than 6'	15': CC&O21: NC&GC35': HC	100:CC&O200:NC&GC400: HC	1 per street frontage per parcel; plus one additional sign per street frontage in excess of 500'	Permanent	Yes	50' between signs on separate frontages; 200' when on same frontage
Center I.D.	1' or equal to height of sign if taller than 6'	15': CC&O21: NC &GC35': HC	100:CC&O200:NC&GC400: HC	1 per street frontage per parcel; plus one additional sign per street frontage in excess of 500'	Permanent	Yes	50' between signs on separate frontages; 200' when on same frontage
Construction	10'	15': CC, O, NC, GC, HC	32	1 per street frontage per parcel, maximum of five with four at two square foot each plus one additional sign per street frontage in excess or 500'	Completion of project	No	50' between signs on separate frontages; 200' when on same frontage

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<i>Freestanding</i>							
<i>Style</i>	<i>Minimum Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Sign Separation</i>
Election	10'	6' in all zones	32	Unlimited	10 days after any election, unless winner of primary	No	N/A
Ideological	10'	6' in all zones	32	1 per issue per street frontage	Permanent	No	N/A
Joint I.D.	1' or equal to height of sign if taller than 6'	15': CC&O21':NC &GC35': HC	100:CC&O20:NC&GC 400:HC	1 per street frontage per parcel plus one additional sign per street frontage in excess of 500'	Permanent	Yes	50' between signs on separate frontages; 200' when on same frontage.
Memorial	5'	6'	12	1 per street frontage per site	Permanent	Yes	N/A
On-Premises	1'	8'	6	As approved by the city through review process	Permanent	Yes	N/A
Public	As needed for convenience of the public or permitted by law						
Real Estate	10'	10'	32	1 per street frontage per parcel, plus one sign per frontage in excess of 500'	Completion of sale	No	50' between signs on separate frontages; 200' when on same frontage

<i>Freestanding</i>								
<i>Style</i>	<i>Minimum Setback</i>		<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	
Project I.D.	Equal height to sign	to of	8'	100	1 per major entrance, maximum of 4	Permanent	Yes	300'
Temporary	Equal height to sign	of	15': CC&O21': NC&GC30': HC	75	1 per street frontage	30 days	No	50' between signs on separate frontages; 200' when on same frontage
Portable	1'		5'	15	1	30 days in any 6 month period	No	N/A

Commercial Zones CC, NC, GC, HC, O

<i>Wall</i>							
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Location</i>	<i>Maximum Projection</i>
General Advertising	CC: 21' or to top of wall, whichever is less NC, O, GC & HC: 35' or to top of wall, whichever is less	50 percent of the total wall surface area where sign is located	1 per approved wall area	Permanent	Internal	1 per approved wall area	15"

<i>Wall</i>							
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Location</i>	<i>Maximum Projection</i>
Awning	Bottom 18" of 1st floor awning; for every 10' of additional setback, an additional 1" of letter height is permitted up to 48"	12" letter height by 75 percent of awning length; for every 10" of additional setback from the property line, an additional 1" of letter height may be added up to a maximum of 42"	1 per awning	Permanent	Yes		Stitched to or incorporated into awning; may not be riveted or otherwise fastened to frame or awning
Canopy	21' or fascia of canopy, whichever is less	75 percent of canopy fascia; signage to be deducted from allowable wall signage	1 attached to canopy per street frontage	Permanent	No	Approved wall area	6" from canopy
Construction	10'	32	1	Completion of construction	No	Approved wall area	6"
Ideological	CC: 21'NC, O, GC, HC: 35' or to top of wall whichever is less	32	1 per approved wall area	Permanent	No	Approved wall area	6"
Mansard	CC: 21'NC, O, GC, HC: 35' or to top of wall whichever is less	50 percent of the total wall surface area where sign is located	1 per approved wall area	Permanent	Yes	Approved wall area	15" at base
Memorial	6'	12	1 per building	Permanent	No	Approved wall area	6"

<i>Wall</i>							
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Location</i>	<i>Maximum Projection</i>
On-Premises	CC: 21'NC, O, GC, HC: 35' or to top of wall whichever is less	8	1 per wall	Permanent	Yes		15" at base
Real Estate	10'	32	1 per wall	Completion of sale	No	Front facade	6"
Temporary business	CC: 21'NC, O, GC, HC: 35' or to top of wall whichever is less	32	1 per approved wall area	90 days	Yes	Approved wall area	15"
Tenant I.D.	8'	8"×48" single plaque, one per tenant per street frontage	1 per principal entrance	Permanent	Yes		15"
Window	21' or top of window, whichever is less	50 percent of window	1 per window	Permanent	Yes	Approved wall area	None
Under-awning Under-canopy	7' clearance; only in nonvehicular areas	4	1 per tenant per use entrance	Permanent	No		To edge of awning or canopy

Commercial Zones CC, NC, GC, HC, O

<i>Projecting</i>							
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Minimum Clearance</i>	<i>Maximum Projection</i>
General Advertising	21' or top of wall, whichever is less	50	1 per approved wall area	Permanent	Yes	8'	5'
On-Premises information	21' or top of wall, whichever is less	8	As approved by City through review process	Permanent	Yes	8'	5' from face of building

Industrial Zones M-1, M-2

<i>Freestanding</i>						
<i>Style</i>	<i>Minimum Front Setback</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>
General Advertising	1' if 6' height, otherwise equal to sign height	25' or building height, whichever is less	100	1 per street frontage	Permanent	Yes
Center I.D.	1' if 6' sign height, otherwise height of sign	25' or building height, whichever is less	100	1 per street frontage	Permanent	Yes
Construction	10'	10'	32	1 per street frontage, maximum 4	Completion of project	No
Election	10'	10'	32	Unlimited	Removal within 10 days after election, unless winner of primary	No
Public	As needed for convenience of the public or permitted by law					
Real Estate	1' if 6' height, otherwise equal to sign height	10'	32	1 per street frontage	Completion of sale	No
Project I.D.	10'	10'	50	2 per major entrance	Permanent	Yes
Portable	1'	5'	15	1	30 days in any six-month period	Internal
Billboard	Equal to height of sign	25'	600	1 per 500 linear feet of frontage	Permanent	Yes

Industrial Zones M-1, M-2

<i>Wall</i>						
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Maximum Projection</i>
General Advertising	35' or top of wall, whichever is less	50 percent of the total surface area on which sign is located	1 per approved wall area	Permanent	Yes	15"
Center I.D.	35' or top of wall, whichever is less	50 percent of the total surface area on which sign is located	1 per approved wall area	Permanent	Yes	15"
Construction	35' or top of wall, whichever is less	32	1 per approved wall area	Completion of project	Yes	15"
Election	10'	32'	Unlimited	Removal within 10 days after election, unless winner of primary	No	15"
Ideological	10'	32	1 per approved wall area	Permanent	No	15"
Joint I.D.	35' or top of wall, whichever is less	50 percent of the total surface area on which sign is located	1 per approved wall area	Permanent	Yes	15"
Real Estate	10'	32	1 per approved wall area	Completion of sale	No	15"
Tenant I.D. Plaque	8'	8"x48" for individual plaque, one per tenant per entrance	1 per major entrance	Permanent	Direct illumination only	6"

Industrial Zones M-1, M-2

<i>Projecting</i>						
<i>Style</i>	<i>Maximum Height</i>	<i>Maximum Size (sq. ft.)</i>	<i>Number of Signs</i>	<i>Duration</i>	<i>Illumination</i>	<i>Maximum Projection</i>
General advertising	35' or top of wall, whichever is less	50	1 per approved wall area	Permanent	Yes	5'
On-premises information	35' or top of wall, whichever is less	8'	As approved by city through review process	Permanent	No	5'

(Prior Code, § 23-319)

Sec. 113-53. Maintenance of signs.

(a) All signs and banners and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. All signs damaged or in need of repair shall be repaired within 30 days. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

(b) If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 90 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other property owner having control over such sign.

(c) If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of a sign or the owner of the property where the sign is located or other person having control over such sign shall either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of section 113-5, which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

(d) The area within ten feet in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than 12 inches in height.

(Prior Code, § 23-320; Ord. No. 1526 3-10-2008)

Sec. 113-54. Unlawful cutting of trees or shrubs.

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

- (1) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the city or other agency having jurisdiction over the streets.

- (2) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
- (3) In any area where such trees or shrubs are required to remain under a permit issued under this chapter.

(Prior Code, § 23-321)

Sec. 113-55. Signs off-premises.

Businesses having a verifiable store front within the city limits shall be allowed to prove off-premises signage subject to the following provisions:

- (1) A miscellaneous permit must be obtained from the building regulations department.
- (2) Size of sign shall be no larger than 18 inches by 24 inches not to exceed 36 inches in height.
- (3) Signs placed off-premises must have written consent from the owner of the property the sign is to be placed on.
- (4) Signage must be placed on private property, no signage shall be allowed in public ROW (right-of-way) or within a site view triangle as defined by this subpart.
- (5) Signage that has been neglected or are in need of repair shall be removed.
- (6) The maximum distance that signage shall be placed away from a store front is one block.
- (7) A maximum of two off-premises signs shall be allowed per business.
- (8) No street corner shall contain more than one off-premises sign.

(Prior Code, § 23-322-1; Ord. No. 1689, 5-2011)

Chapter 114

RESERVED

Chapter 115

SUBDIVISIONS*

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ARTICLE I. IN GENERAL**Sec. 115-1. 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. The definitions in this section are to be used in addition to other definitions provided in this subpart.

Access road means an easement adjacent to a public right-of-way providing access to abutting properties.

Cul-de-sac street means a street open at one end only, with a radius bulb at its terminus for vehicular turn around.

Dead end street means a street with only one outlet, the ultimate intention of which is to connect it with a future street.

Driveway means a privately owned and maintained travel lane providing private vehicular access from the public street to the private or public property.

Final plat means a map representing a tract of land proposed to be subdivided into lots showing geometric detail for all lots, rights-of-way, easements, intersections and boundaries, and other information as required by the development procedures to establish survey monuments and establish precise lot line locations after recordation.

Lot means a parcel or portion of land separated from other parcels or portions by a legal description, as on a subdivision plat for purpose of sale, lease or separate use.

Lot consolidation means the combining of two or more lots, or portions thereof, into one lot with a recorded plat without the creation of any new building sites.

Minor subdivision means to adjust lot lines, create new lot lines or create additional lots in an existing subdivision, provided that the resulting subdivision contains no more than three new lots; no exceptions to subdivision regulations are required; and street alignment remains the same.

Non-through street means a street that begins and ends at intersections with a common street, such as a loop, circle, drive or cul-de-sac, that does not connect to other streets or subdivisions.

Outlot means a remaining parcel platted in a subdivision but set aside for a specific purpose other than development, the purpose of which shall be shown on the face of the subdivision plat. An outlot shall not be a reserve strip, useless remnant of land, or a building site.

Parkway means a street which will carry moderate traffic from local streets to major arterial streets beautified with more plantings than on a collector street with such plantings located either in center medians and/or along both sides of the street surface.

Preliminary plat means a map representing a tract of land proposed to be subdivided into lots showing proposed and existing streets, lot lines, topography and drainage, easements and public areas, and other information as specified in the development procedures.

Primary greenway means a public easement consisting of those linear strips of land adjacent to creeks, rivers, ditches or roadways used for passive and scenic open space and park purposes and self-propelled transportation modes and which provide connections between community activity nodes and residential areas.

Property line adjustment means to administratively move the location of a property line a distance of no more than five feet without creating any new lots or parcels, provided that the remaining parcels meet the requirements of this chapter.

Secondary greenway means a public easement consisting of a minimum ten-foot pathway, designed to provide open space connections between living areas and parks, schools and primary greenways.

Subdivider means any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity who has a proprietary interest in the land sought to be subdivided and who commences proceedings under this subpart to effect a subdivision of land under this subpart for himself and/or for any co-owners.

(Prior Code, § 23-352)

Sec. 115-2. Purpose.

The purpose of these regulations are:

- (1) To ensure that the public's health, safety and welfare are secured.
- (2) To maintain property values by preserving existing development and to ensure orderly, new development.
- (3) To stabilize neighborhoods and preserve their quality
- (4) To provide a uniform set of regulations for the entire city.
- (5) To ensure traffic safety through the safe and orderly movement of vehicles throughout the city.

(Prior Code, § 23-351)

Sec. 115-3. Compliance with chapter.

This chapter is intended to be a supplement to the requirements and regulations of this chapter working in conjunction with other city ordinances. This chapter attempts to better define the requirements of the subdivision process, and the review of and construction of public facilities.

(Prior Code, § 23-353)

Sec. 115-4. Exceptions to the subdivision regulations.

(a) Petition for exception. A subdivider may apply for any exception to the minimum design standards specified in this chapter. The subdivider shall submit an application for exception specifying the basis for the exception requested.

(b) Required findings by the city. The city shall review the application for exception according to the development procedures in article III of chapter 101. The planning and zoning commission shall make the following findings in support thereof for exception applications not eligible for administrative approval by the city planner or for those applications being appealed to the planning and zoning commission under subsection (d) of this section and forward a recommendation to the city council.

(c) A request shall meet the following criteria for planning and zoning commission consideration and ultimately for city council approval:

- (1) The existence of special circumstances or conditions affecting the property which limit the ability of the property to meet the subdivision design standards for lots, access and other standards also set forth in this chapter, and the street design standards as set forth in the city general conditions, technical specifications and stormwater management plan. Special circumstances or conditions include narrowness, unusual shape, exceptional topographic conditions or other extraordinary situation or condition of the subject property. Financial difficulties, loss of prospective profits and previously approved exceptions in other subdivisions shall not be considered as special circumstances or conditions; or
- (2) The existence of an alternative design that will meet the spirit and intent of the standards and requirements set forth in this chapter, by providing orderly subdivision of land and providing public facilities.
 - a. Provide for the orderly subdivision of land. The city may require the development to be processed as a planned unit development if the complexity and interrelated design of the development more appropriately meets the intent of the PUD process. The PUD process shall provide flexibility to review the exception as a part of a creative and imaginative development design tailored to each unique site and surround areas;
 - b. Provide public facilities that will benefit the public without detriment to surrounding property owners or the city's ability to provide services and maintain public facilities; and
 - c. Provide amenity to the development through design that could not be provided through the adopted standard.
- (3) If granted, the exception will not be detrimental to the public interest or other property nor in conflict with the city comprehensive plan or other applicable provisions of this Code unless corresponding exceptions or variances are approved.
- (4) The exception will not endanger public safety.

(d) Restriction or requesting exceptions. If a subdivider requests an exception under this article, the preliminary plat shall, whenever possible, indicate the exceptions outlined in the application and shall be reviewed and approved per article III of chapter 101, prior to consideration of the final plat. Exception requests that are considered after final plat may trigger the need to amend previously approved plans such as the preliminary and final plat or the memorandum of agreement for public improvements. Subdivision exceptions are allowed to be processed concurrent with planned unit development applications.

(e) Administrative exceptions for street design standards. The city's street superintendent may grant administrative approval for deviations from the city public improvements design standards and construction specifications, adopted by this chapter, for public streets based upon the following criteria:

- (1) A request for administrative approval shall meet all the criteria established under subsection (b) of this section.
- (2) All actions taken by the street superintendent shall be in writing and shall be considered prior to approval of a development application.
- (3) Appeals of the street superintendent's decision shall be submitted in writing to the planning and development department within 30 days after the decision of the street superintendent.
- (4) All appeals, other than those that can be reviewed administratively, shall be acted upon by the planning and zoning commission and ultimately by the city council at their next regularly scheduled meeting.

(Prior Code, § 23-383)

Sec. 115-5. Regulation of subdivisions.

Major subdivisions are subject to a two-step approval process. Physical improvements to the land to be subdivided are authorized by a preliminary plat approval as provided in article III of chapter 101, and sale of lots is permitted after final plat approval as provided in section 115-39. Minor subdivisions only require a one-step approval process: final plat approval (in accordance with section 115-39). Minor subdivisions include platting no more than three lots.
(Prior Code, § 23-86)

Sec. 115-6. Subdivision procedure.

The subdivider shall comply with all applicable provisions of this chapter and the standards of the city technical specifications and stormwater management code as set forth by city ordinance.

(Prior Code, § 23-354)

Sec. 115-7. Conformity with the city plan.

The city plan shall be used as a guide for the development of land within the corporate boundaries of the city. No land shall be zoned, subdivided, or developed for any purpose not authorized by this chapter or in conformance with the city plan.

(Prior Code, § 23-355)

Sec. 115-8. Unrecorded plats.

Permits shall not be issued on properties that do not have a recorded plat approved by the city.

(Prior Code, § 23-382)

Secs. 115-9—115-34. Reserved.**ARTICLE II. PLAT APPROVAL****Sec. 115-35. No subdivision without plat approval.**

(a) No person may subdivide his land except in accordance with all of the provisions of this chapter. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of sections 115-38 or 115-39 and recorded in the county registry.

(b) The county register of deeds may not record a plat of any subdivision within the city limits unless the plat has been approved in accordance with the provisions of this chapter.

(Prior Code, § 23-87)

Sec. 115-36. Subdivision plat review process.

Application for preliminary plat approval shall be reviewed for conformance with all city-adopted codes. The following review criteria shall be used by staff to ensure the development, in the proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining property or abutting property;
- (3) Will be in harmony with the area in which it is located; and
- (4) Will be in conformity with the comprehensive plan, thoroughfare plan, zoning regulations or other plan officially adopted by the city council.

(Prior Code, § 23-376)

Sec. 115-37. Referral to public entities.

The city shall refer all proposed subdivision plats to governmental and public agencies that have a demonstrated interest in the matter, for their information, review, action or comments.

(Prior Code, § 23-377)

Sec. 115-38. Minor subdivision approval.

(a) The planning and zoning commission shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(b) The applicant for minor subdivision plat approval, before complying with subsection (c) of this section, shall submit a sketch plan to the city planner for a determination of whether the approval process authorized by this section can be and should be utilized. The city planner may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years.

(c) Applicants for minor subdivision approval shall submit to the planning and zoning commission a copy of a plat conforming to the requirements set forth in section 115-39(b) and (c) (as well as 15 prints of such plat), except that a minor subdivision plat shall contain the following certificates in lieu of those required in section 115-40:

- (1) Certificate of ownership.

I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the city, and that I freely adopt this plan of subdivision.

Date/Owner

- (2) Certificate of approval.

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, that the subdivision shown is in all respects in compliance with Subpart B of the Nixa City Code, and that therefore this plat has been approved by the City of Nixa planning and zoning commission, subject to it being recorded in the Christian County Registry within 60 days of the date below.

Date/Municipal Planner

- (3) A certificate of survey and accuracy, in the form stated in section 115-40(3).

(d) The city planner shall take expeditious action on an application for minor subdivision plat approval as provided in section 101-150. However, either the city planner or the applicant may at any time refer the application to the major subdivision approval process.

(e) Not more than a total of three lots may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time.

(f) Subject to subsection (d) of this section, the planning and zoning commission shall approve the proposed subdivision unless the subdivision is not a minor subdivision defined in section 101-2 or the application or the proposed subdivision fails to comply with subsection (e) of this section or any other applicable requirement of the chapter.

(g) If the subdivision is disapproved, the city planner shall furnish the applicant with a written statement of the reasons for disapproval.

(h) Approval of any plat is contingent upon the plat being recorded within 60 days after the date the certificate of approval is signed by the city planner or his designee.

(Prior Code, § 23-88)

Sec. 115-39. Major subdivision approval process.

(a) The city planner shall approve or disapprove major subdivision final plats in accordance with the provisions of this section.

(b) The applicant for major subdivision plat approval shall submit to the city planner a final plat, drawn in waterproof ink on Mylar, and have dimensions as follows: 24 inches wide by 36 inches long. When more than one sheet is used for any plat, each sheet shall be numbered consecutively and shall contain a notation giving the total number of sheets. There shall be a binding margin of 1½ inches on the left side of the 36-inch length, and one inch margins on all other sides. The plat shall be drawn at a scale of 100 feet or less to the inch. Said scale shall be indicated on the plat graphically. The applicant shall submit four copies of the final plat of the subdivision; two copies shall be of Mylar and two copies shall be blueline or blackline prints.

(c) In addition to the appropriate endorsements, as provided in section 115-40, the final plat shall contain the following information:

- (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the county registry;
- (2) The name of the subdivision owner or owners;
- (3) The township, county, and state where the subdivision is located;
- (4) The name of the surveyor and his registration number and the date of the survey;
- (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
- (6) All boundary lines with lengths and courses to hundreds of a foot and bearings to half minutes (to be determined by an accurate survey with an error of not less than 1:5,000);
- (7) State plane coordinate requirements. The property being subdivided shall be tied to the Geographic Reference System of Christian County, Missouri, based on the Missouri Coordinate System of 1983, Central Zone. The final plat shall show state plan

coordinates on all controlling corners of the parent tract boundary being subdivided, either directly or by means of a table. Determination of state plane coordinates and the publication of same shall comply with 4 CSR 30016,050;

- (8) The true bearings and distances to nearest established street boundaries, patent or other established survey lines, or other official monuments, which shall be located or accurately described on the plat (any patent or other established survey or corporation lines shall be accurately monument-marked and located on the plat, including their names);
- (9) The accurate location and material of all permanent reference monuments, complying with the latest state minimum standards for property boundary surveys;
- (10) Street and alley lines (their names, bearings, angles of intersection and widths including the widths along the line of any obliquely intersecting street);
- (11) The length of all arc—radii points of curvature and tangent bearings;
- (12) All easements and rights-of-way, when provided for or owned by public services (with the limitation of the easement rights definitely stated on the plat);
- (13) All lot lines with dimensions in feet and 1/100s, and with bearings and angles to minutes if other than right angles to the street and alley lines;
- (14) Lots numbered in numerical order and plats with more than one block shall also be in numerical order. (In the case of a re-subdivision of lots in any block, such re-subdivided lots shall be designated by their original number prefixed with the term most accurately describing such division or they shall be designated numerically, beginning with the number following the highest lot numbered in the block.);
- (15) The accurate outline of all property which is offered for dedication for public use;
- (16) All watercourses and watercourse easements;
- (17) Setback lines as fixed by the zoning map or major thoroughfare plan and any other setback lines established by public authority;
- (18) Private restrictions, if any, including boundaries of each type of use restrictions;
- (19) The names and locations of adjoining subdivisions and the location and ownership of adjoining subdivided property;
- (20) The North-point;
- (21) The owner's certificate;
- (22) The certificate of taxes paid;
- (23) Planning and zoning commission approval;
- (24) A plat note shall also be added written as follows:

"It is the builder's responsibility to ensure that the minimum finished floor elevation for the applicable lot is complied with. The elevations are based on the benchmark

elevations as shown on this plat. The minimum finished floor elevations are for stormwater purposes only. The floor elevations do not take into account the floor elevation necessary to utilize the sanitary sewer."

- (d) The city planner shall approve the proposed plat unless it finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this chapter or that the final plat differs substantially from the plans and specifications approved in conjunction with the preliminary plat approval that authorized the development of the subdivisions.
- (e) If the final plat is disapproved by the city planner, the applicant shall be furnished with a written statement of the reasons for the disapproval.
- (f) Approval of a final plat is contingent upon the plat being recorded within 60 days after the approval certificate is signed by the city planner or his designee.

(Prior Code, § 23-89; Ord. No. 1598, 7-2009)

Sec. 115-40. Endorsements on major subdivision plats.

All major subdivision plats shall contain the endorsements listed in subsections (1), (2), and (3) herein.

(1) Certificate of approval:

"I hereby certify that all streets shown on this plat are within the City of Nixa, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 12 months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Subpart B of the Nixa City Code, and therefore this plat has been approved by the City of Nixa city planner, subject to it being recorded in the Christian County Registry within 60 days of the date below.

Date/City Clerk"

(2) Certificate of ownership and dedication:

"I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the City of Nixa, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Nixa city council in the public interest.

Date/Owner

(Notarized)"

(3) Certificate of survey and accuracy:

"I, _____, hereby state that this plat was prepared under my supervision from an actual survey of the land herein described, and that the corner monuments and lot corner pins shown hereon were placed under personal supervision of _____, in accordance with the Missouri Minimum Standards for Property Boundary Surveys, for the city.

Supervisor/Date"

(4) Certificate of compliance with land development code:

"I, _____, hereby state that all improvements have been complied with in accordance to the land development code of the city.

Principal Designer/Date"

(5) Certificate of approval by the city planner of the City of Nixa:

"Approved this _____ day of _____, 20____ by the planning and zoning commission of the City of Nixa, Christian County, Missouri.

By: _____
Municipal Planner/Date"

(Prior Code, § 23-90)

Sec. 115-41. Plat approval not acceptance of dedication offers.

Approval of a plat does not constitute acceptance by the city of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the city may accept any such offer of dedication by resolution of the city council or by actually exercising control over and maintaining such facilities.

(Prior Code, § 23-91)

Sec. 115-42. Protection against defects.

- (a) Whenever (pursuant to section 101-144) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is posted pursuant to section 101-144 shall guarantee that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.
- (b) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within one year after the offer of dedication of such facilities or improvements is accepted.
- (c) An architect or engineer retained by the developer shall certify to the city that all facilities and improvements to be dedicated to the city have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance by the city of the offer of dedication of such facilities or improvements.
- (d) For purposes of this section, the term "defects" refers to any condition in publicly dedicated facilities or improvements that requires the city to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this chapter.

(Prior Code, § 23-92)

Sec. 115-43. Final subdivision acceptance.

- (a) Final subdivision acceptance shall occur upon signing of the final plat. The final plat shall normally be signed and building permits released upon completion and acceptance of all public improvements; and all requirements of this chapter have been met. In conjunction with the signing of the final plat, the developer shall provide the city with a warranty document for all public improvements for a term of 12 months.
- (b) Prior to the signing of the final plat and after the installation of all improvements except asphalt, one model home permit may be released for the subdivision. Building permits for the remainder of the subdivision shall be issued upon recordation of the final plat with the county, and a copy of the recorded plat is returned to the development department.

(Prior Code, § 23-378)

Secs. 115-44—115-74. Reserved.

ARTICLE III. REQUIRED IMPROVEMENTS AND DESIGN STANDARDS**DIVISION 1. GENERALLY****Sec. 115-75. As-builts.**

Upon completion of the public improvements in a proposed subdivision and prior to recordation of the final plat, the project engineer shall submit to the development department a stamped, sealed set of "as-builts" reflecting all public improvements installed by the developer with noted changes or deviations from the approved set of plans.

(Prior Code, § 23-379)

Sec. 115-76. Performance security.

(a) Upon receiving approval of the preliminary plat and construction plans, which shall be effective for a period of one year, unless extended by the city council, the developer may proceed to install all required improvements and, for this purpose, may secure from the appropriate authorities the necessary permits; provided, however, that the developer, at his option and immediately following tentative approval of the preliminary plat, may request approval of the final plat.

(b) In the event approval of the final plat is requested prior to the installation of improvements, the developer shall agree to construct and complete the required improvements and utilities one year from the recording of the plat. The developer shall be required to furnish performance security for an amount not less than 110 percent of the estimated cost of the improvements determined by the engineer of recorded and subject to approval by the city. All forms of performance security must be provided for a minimum term of two years and shall be subject to approval by the city attorney of the city. Extension of the one year installation requirement and renewal of said securities may be made upon the approval of the city council for an additional period of time, provided application for renewal is made at least 30 days prior to the expiration date. In the event the improvements and utilities are not completed within the time allowed, the city shall enforce the performance security by all appropriate legal and equitable remedies, collect the same, and complete the required improvements on behalf of the city.

(c) Acceptance of performance security for a development allows for the recordation of the final plat and subsequently the release of building permits, however, occupancy will not be allowed in a subdivision until all public improvements have been installed and accepted by the city.

(Prior Code, § 23-356)

Sec. 115-77. Maintenance of dedicated areas until acceptance.

As provided in section 101-151, all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

(Prior Code, § 23-93)

Sec. 115-78. Submittal of plans on disc.

The engineer of record on a proposed subdivision shall submit a copy of the plans and final plat to the mapping technician of the city in digital form. The engineer shall contact the mapping technician prior to submittal to ensure the media used for the transfer of information is compatible with the format currently used by the city. The submittal of plans on disc ensures that information used on city maps is accurate.

(Prior Code, § 23-380)

Sec. 115-79. Bonding.

(a) Upon receiving approval of the preliminary plat and construction plans, which shall be effective for a period of one year, unless extended by the city council, the developer may proceed to install all required improvements and, for this purpose, may secure from the appropriate authorities the necessary permits; provided, however, that the developer, at his option and immediately following tentative approval of the preliminary plat may request approval of the final plat. In the event approval of the final plat is requested prior to installation of improvements, the developer shall agree to construct and complete the required improvements and utilities one year from the recording of the plat. The developer shall be required to furnish an escrow secured with cash or an irrevocable letter of credit deposited with the city or a performance bond guaranteeing actual construction and installation of the improvements and utilities in accordance with the agreement, issued by corporate sureties engaged in the business of signing bonds in the state, approved by the city attorney. The amount of the bond shall not be less than the estimated cost of the improvements determined by the city engineer or the amount of a firm bid for the completion by a contractor approved by the city, whichever is less. Renewal of the bond may be made upon the approval of the city council for an additional period of time specified by the city council, provided application for renewal is made at least 30 days prior to the expiration date of said bond. In the event the improvements and utilities are not completed within the time allowed, the city shall enforce the bond by all appropriate legal and equitable remedies, collect the same, and complete the required improvements on behalf of the city.

(b) Acceptance of bonding for a development allows for the recordation of the final plat and subsequently the release of building permits, however, occupancy will not be allowed in a subdivision until all public improvements have been installed and accepted by the city.

(Prior Code, § 23-381)

State law reference—Authority to so provide, RSMo 89.410.

Sec. 115-80. Release of escrows, letters of credit or bonds.

(a) If a developer who has posted an escrow, or letter of credit, or bond with the city to guarantee grading and improvement of streets or installation of utilities transfers title of the subdivision property prior to full release of the escrow, letter of credit, or bond, the city shall accept a replacement escrow or letter of credit from the successor developer at the time of the property transfer, and upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release the original escrow or letter of credit in full and release the prior

developer from all further obligations with respect to the subdivision improvements if the successor developer assumes all of the outstanding obligations of the previous developer. The city may accept a surety bond from the successor developer at the time of the property transfer, and upon receipt of the replacement bond, the city shall release the original bond in full, and release the prior developer from all further obligations with respect to the subdivision improvements.

(b) Any escrow or bond amount held by the city to secure actual construction and installation on each component of the improvements or utilities shall be released within 30 days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. The city shall inspect each category of improvement or utility work within 20 business days after a request for such inspection. Any such category of improvement or utility work shall be deemed to be completed upon certification by the city that the project is complete in accordance with this article including the filing of all documentation and certifications required by the city in complete and acceptable form. The release shall be deemed effective when the escrow funds or bond amount are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount are hand delivered to an authorized person or place as specified by the owner or developer.

State law reference—Similar provisions, RSMo 89.410.

Sec. 115-81. Use of public use permit and bonding procedures for construction with city-owned properties and/or rights-of-way.

(a) *Permit.* A complete set of construction plans meeting all requirements under this subpart, technical specifications code, and all other applicable city codes must be submitted and public use permit from the city must be obtained prior to commencing construction. Before a use of public place permit is released, the city will determine a reasonable time frame in which the installation of improvements must be completed.

(b) *Bond.* All proposed improvements within city properties and/or rights-of-way shall be bid at prevailing wage. Prior to commencing work, a performance bond guaranteeing actual construction and installation of the improvements in accordance with the use of public place permit, issued by corporate sureties engaged in the business of signing bonds in the state, and approved by the city attorney must be collected by the city. The amount of the bond shall not be less than 110 percent of the estimated cost of the improvements determined by the city engineer or 110 percent of the amount of a firm bid for the completion by a contractor approved by the city, whichever is less. In the event that the improvements are not completed within the time allowed, the city shall enforce the bond by all appropriate legal and equitable remedies, collect the same, and complete the required improvements on behalf of the city. Upon completion and acceptance by the city, a warranty guaranteeing the improvements for a period of one year must be provided.

(c) *Hold harmless.* The city, its officers, and employees, shall be held harmless and indemnified by owner against any claims, liabilities, damages, fines, penalties, and costs arising out of or resulting from the performance or nonperformance under the use of public place permit by the developer, its officers, employees or agents.

(Prior Code, § 23-384)

Secs. 115-82—115-103. Reserved.

DIVISION 2. COMMON OPEN SPACE AND COMMON IMPROVEMENT REGULATIONS

Sec. 115-104. General provisions.

The regulations set forth in this division shall apply in all developments where the following features are held in common ownership by persons owning property within a development:

- (1) All lands in common open space, not a part of individual lots, designated for the mutual benefit of a group of persons owning property within a development where features are held in common ownership by persons owning property within a development.
- (2) All private streets, driveways, parking facilities, and buildings or portions thereof, as may be provided for the common use, benefit and/or enjoyment of the occupants of the development, whether or not such improvements are required by the provisions of this article.

(Prior Code, § 23-357; Ord. No. 1365, 8-2005)

Sec. 115-105. Property owner's association.

Common open space and common improvements shall be protected by legal arrangements, satisfactory to the planning and zoning commission, city council, and the city attorney sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify:

- (1) Ownership of the common open space and common improvements; method of maintenance, responsibility for maintenance; maintenance taxes and insurance;
- (2) Compulsory membership and compulsory assessment provision;
- (3) Guarantees that any association formed to own and maintain common open space and common improvements will not be dissolved without the consent of the city; and
- (4) Other specifications deemed necessary by the city attorney, planning and zoning commission and city council.

(Prior Code, § 23-358; Ord. No. 1365, 8-2005)

Sec. 115-106. Covenants, rules and bylaws.

The city planner and the city attorney shall review and approve the restrictive covenants, rules and bylaws of the unit ownership, as prepared in accordance with this division and RSMo

ch. 448. This approval shall be obtained before any final plat is recorded or final site plan approved. Such documents, once approved, shall become part of the recorded subdivision plat or approved site plan.

(Prior Code, § 23-359; Ord. No. 1365, 8-2005)

Sec. 115-107. Content of covenants and restrictions.

The covenants and restrictions, when submitted, shall specify the ownership of the common open space and common improvements, shall be prepared in accordance with this division and RSMo ch. 448, shall provide for establishment of the condominium homeowners' or property owners' association or trust prior to the sale of any part of the property; for the method of maintenance; that open space restrictions and maintenance shall be permanent; that the homeowners property owners are liable for the payment of maintenance fees and capital assessments; that unpaid homeowners' property owners' fees and assessments will be a lien on the property of the delinquent homeowners property owners; that the association or trustee shall be responsible for liability insurance, taxes and perpetual maintenance; that membership shall be mandatory for each homeowner property owner and any successive buyer; that each homeowner property owner, at the time of purchase, shall be furnished with a copy of the approved restrictions or conditions; and that any association or trust formed to own and maintain common open space and common improvements will not be dissolved without the consent of the city. Notwithstanding the foregoing, in no event shall this declaration be revoked or amended with respect to the city's right to assess the lots for repair and maintenance of common areas without the prior written consent of the city, nor may the association be dissolved without the prior written consent of the city. An amendment purporting to revoke this declaration or to vary the city's rights hereunder shall be void unless the city's prior written consent is attached to such amendment. In addition, such covenants and restrictions shall provide that in the event the association fails to maintain the common areas, open space/improvements, or should be dissolved for any reason and the common areas and space/improvements are not maintained in reasonable condition, the city may enter and maintain same, and assess the costs ratably against the properties within the development that have the right to enjoy or use the common area or open space/improvements, which assessment shall constitute a lien against such properties.

(Prior Code, § 23-360; Ord. No. 1365, 8-2005)

Sec. 115-108. Maintenance of common open space and common improvements.

(a) If the planning and zoning commission and city council determines that the public interest requires assurance concerning adequate maintenance of common open space areas and improvements, the planning and zoning commission and city council may require that the restrictive covenants, rules and bylaws creating the unit ownership shall provide that if the unit owners establish and maintain such common open space, or any successor unit owners shall at any time after establishment of the development fail to maintain the common open space/improvements in reasonable order and condition in accordance with the approved plans, the city may serve a notice in writing upon such unit owners. Said notice shall describe how

the unit ownership has failed to maintain the common open space/improvements in reasonable condition, shall require that such deficiencies of maintenance be remedied within 30 days thereof, and shall state the date and place of a public hearing. Said hearing shall be held within 20 days of notice.

(b) Rights of the city. If the city determines that the association has failed to maintain the common areas in reasonable order and condition in accordance with the plans and plat approved by the city for development of the subdivision, the city may, after notice and hearing to the developer and the board, take such corrective or remedial action as may be necessary to adequately maintain or repair the common areas and assess the costs against the owners ratably which shall be a lien on each lot.

(c) At such hearing, the city council may modify the terms of the original notice concerning the deficiencies and may grant an extension of time to remedy these deficiencies.

(d) If said deficiencies are not corrected, the city may enter upon said common open space and maintain the same for one year in order to preserve the taxable values of the properties within the development and to prevent the common open space/improvement from becoming a public nuisance.

(e) Said entry and maintenance shall not grant the public any rights to use the common open space/improvements unless the owners voluntarily dedicate the same to the public and such dedication is accepted by the city.

(f) Before the expiration of said one-year period and upon its initiative or upon the request of the unit owners theretofore responsible for the maintenance of the common open space/improvements, the city council shall call a public hearing upon notice in writing to such organization or to owners of the unit ownership. At said hearing, the unit owners shall show cause why such maintenance by the city shall not, at the election of the city council, continue for a succeeding one-year period.

(g) If the city council determines that said unit ownership is ready and able to maintain the common open space/improvements in reasonable condition, the city shall cease to maintain the common open space/improvements at the end of said one-year period or at an earlier date prescribed by the city council. If the city council determines that such organization is not ready and able to maintain the common open space/improvements in a reasonable condition, the city council may, at its discretion, continue to maintain the common open space improvements during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

(h) The rules and bylaws creating the unit ownership shall further provide that the cost of such maintenance by the city shall be assessed ratably against the individual properties within the development that have a right of enjoyment of the common open space/improvements. This assessment shall become a charge on said properties, and such charge shall be paid by the owners of said properties within 30 days after receipt of same. Such assessments shall constitute a lien against all properties within the unit ownership.

(Prior Code, § 23-360A; Ord. No. 1365, 8-2005)

Sec. 115-109. Maintenance responsibility.

(a) Except as provided in this division, the city shall not be responsible for the maintenance of any common open space/improvements required by this chapter.

(b) Initial maintenance of the common open space/improvements within a development shall be the responsibility of the developer. The restrictive covenants, rules and bylaws of the unit ownership may prescribe a method for transfer of maintenance responsibility to a duly constituted property owners' association. In the event no method for transfer or maintenance responsibility is prescribed, the developer shall retain this responsibility until 50 percent of the development has been sold, the established homeowners association or trust unit organization, comprised of the development's unit owners shall be deeded the common open space/improvements and such owners shall become fully responsible for its maintenance and upkeep.

(c) The maintenance responsibilities of the developer listed in this division shall be specifically indicated in a letter of agreement between the developer and the city. The developer shall submit said letter to the planning and zoning commission director of planning and development at the time of final plat review. All principal access shall be from an arterial highway or street and no truck traffic shall be routed through any adjacent residential areas. Streets through adjacent residential areas shall not be used to provide principal access for truck traffic to any nonresidential use in this district except on streets classified as expressways, arterials or collectors.

(Prior Code, § 23-360B; Ord. No. 1365, 8-2005)

Secs. 115-110—115-131. Reserved.**DIVISION 3. DESIGN PRINCIPLES****Sec. 115-132. Construction standards.**

All construction of public improvements and public streets shall conform to the applicable city public improvements design standards and specifications.

(Prior Code, § 23-361)

Sec. 115-133. Consideration of existing conditions.

The city realizes that existing conditions of an area considered for development plays a role in the development potential of the property. These factors will be given consideration during the review of the proposal. Within the established framework of local streets, consideration shall be given to provide for the uniformity of street widths and for proper alignments and street names. In residential areas, the preservation of privacy and safety of the subdivision will be a consideration in the prevention of through traffic in an area. Street design shall be directly related to the traffic-generating uses of abutting land. The number of intersections on streets and highways shall be reduced to a minimum consistent with the basic needs of ingress and egress. Intersection design must provide for the greatest safety both for pedestrians and

motorists. This will be accomplished through the consideration of dangers associated with site distance and proximity to existing intersections. The topography of the land shall be respected and streets shall be designed to minimize excessive grading and scarring of the landscape. Problems of drainage must be adequately addressed to ensure occupants of a subdivision security from any potential flooding.

In circumstances where development is proposed adjacent to an existing street with a classification of collector or greater; a traffic impact study shall be performed at the time of development. The traffic impact study shall be performed by a traffic engineer registered in the State of Missouri. The traffic impact study shall address the impact of the proposed development on the adjacent street system, including but not limited to, vehicular circulation, vehicular volume, site distance, and ingress/egress to the proposed development. The traffic impact study shall be submitted to the City of Nixa for review and approval as part of the construction document review process.

(Prior Code, § 23-362; Ord. No. 1900, 3-21-2016)

Sec. 115-134. Determination of public street or private driveway.

(a) All accessways functioning as streets in terms of public access and provisions of public services shall be shown on the plat and constructed in accordance with the standards and specifications provided in this chapter and the technical specifications manual.

(b) When designation of public or private access is unclear, the city shall apply the following criteria to a particular situation to determine if a proposed accessway shall be a public street or private driveway.

- (1) Driveways are generally non-through; they are not to provide easy, convenient connection between streets that encourages use by the general public.
- (2) Driveways generally serve one lot, not several lots capable of being held in separate ownership. Accessways that provide the only or the primary access from the street to a use by crossing other lots can require public access. Public access is better served via a public street.
- (3) Public services are generally provided on streets, not private drives. In a situation where a driveway's design makes it difficult for the city to provide its services in a standard fashion, or makes it difficult for residents to utilize the standard public services, and where the difficulty can be eliminated by utilizing a street instead of a driveway, a street is appropriate.
- (4) Unless the city determines that it is in the best interest of the city to do otherwise, the publicly owned and maintained portions of the water and sewer systems are constructed within the street ROW; instillation of these services beyond the right-of-way (in a driveway) shall be maintained by the landowner.

(c) If an applicant does not agree with staff interpretation of this section, an appeal may be made to the planning and zoning commission.

(Prior Code, § 23-363)

Sec. 115-135. Access to streets.

All lots created by the subdivision of land shall abut a public street conforming to the standards set forth in article VII of chapter 117 except as allowed in section 115-172.
(Prior Code, § 23-364)

Sec. 115-136. Two means of access.

(a) Two means of access connecting with a public street shall be provided to ensure public safety by providing an efficient transportation system for ingress and egress from a subdivision. The two access points shall connect with the public street system.

(b) Consideration will be given if it can be shown that compliance with this section is not possible due to land constraints. A limited number of lots, acreage, or an unusually shaped piece of property that cannot reasonably be served by more than a single access point will be considered. If it is determined that a single access is all that the property will accommodate, it must be shown that the single access will meet the public safety and transportation needs of the subdivision.

(c) When it has been determined that two means of access is impracticable for development, it may be necessary for emergency purposes to provide an emergency access. This alternative access shall be required if it is determined that the number of units proposed and the nature of the development warrants the emergency access. The alternative access shall be designed to accommodate the ingress and egress of necessary emergency vehicles as determined by the city chief of police and the fire district chief.

(d) Developments that are constructed in phases shall, in the initial phase, construct both means of access. If land constraints prohibit the construction of both access's with the initial phase, the developer may post financial security in the amount of 100 percent of the cost of constructing the second access pursuant to section 115-79.

(Prior Code, § 23-365)

Sec. 115-137. Lot standards.

The following standards are to be used during the design stage of a proposed subdivision to ensure proper size, shape and orientation of lots:

- (1) The minimum area and dimensions of proposed lots shall meet the requirements of article VIII of chapter 117. Planned unit developments (PUD) shall comply with the standards set forth in the PUD regulations.
- (2) For lots located on cul-de-sac bulbs, the street frontage requirements of the zoned district shall not apply at the ROW line. The street frontage requirement shall be measured at the setback line to ensure lots of sufficient size to accommodate a structure comparable to other lots within the subdivision.
- (3) Corner lots established in residential districts shall be platted wider than interior lots to accommodate the required side yard setback.

- (4) At a minimum, cul-de-sac lots shall have 35 feet of frontage on the adjacent public street.

- (5) The creation of lots with front and rear street frontages shall be avoided. In circumstances where it is unavoidable, houses must front the lesser traveled of the two public streets. When the lesser traveled road cannot be determined, the first structure constructed will determine the frontage street for the remainder of the lots.
- (6) All detention facilities designed to serve only one subdivision shall be platted as a part of an individual lots with all maintenance and upkeep required by the individual lot owner who purchases that lot. Regional detention facilities designed to serve more than one subdivision shall be dedicated to the city with all maintenance performed by the city. In instances where detention facilities are incorporated into subdivision's open space as an amenity package, a homeowners' association will be responsible for the maintenance needs.
- (7) The minimum lot size shall apply to the usable portion of the lot only. Lots containing detention basins shall not include the portion of the lot dedicated for drainage purposes to satisfy the minimum lot size requirements of article VII of chapter 117.
- (8) A lot depth in excess of 2½ times the width shall be avoided.
- (9) Easements shall be provided where necessary for utilities, drainage, or other public purposes.
- (10) No lot shall be divided by a city boundary line.

(Prior Code, § 23-366)

Sec. 115-138. Buildable lots.

All lots created through the subdivision process shall be developable and shall conform to the minimum standards as set forth in this chapter. No subdivision of land shall create lots that prohibit development due to steepness of terrain, natural physical conditions or other existing conditions.

(Prior Code, § 23-367)

Sec. 115-139. Ditch improvements.

The city may require stormwater conveyance systems to either be concrete lined or piped in a proposed subdivision if necessary to promote public safety and welfare.

(Prior Code, § 23-368)

Secs. 115-140—115-161. Reserved.

DIVISION 4. STREETS AND SIDEWALKS

Sec. 115-162. Street classification.

- (a) In all new subdivisions, streets that are dedicated to public use shall be classified as provided in subsection (b) of this section.
 - (1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day (ADT);

- (2) The number of dwelling units to be served by the street may be used as a good indicator of the number of trips but is not always conclusive;
 - (3) Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.
- (b) The classification of streets shall be as follows:
- (1) *Local.* A street primarily providing direct access to abutting properties and designed to accommodate low volume, low-speed traffic. The design service volume for local streets is less than 1,500 vehicles per day with a design speed of 30 mph.
 - (2) *Collectors.* A street which collects and distributes traffic between arterial streets and local streets and is primarily intended to provide for low-to-moderate volume, low-speed, and short length trips while also providing access to abutting properties. The design service volume for collector streets is 1,500 to 8,000 vehicles per day with a design speed of 30 mph.
 - (3) *Secondary arterial.* A street which collects and distributes traffic between arterial streets and local streets and is primarily intended to provide for low-to moderate volume, low-speed, and short length trips while also providing access to abutting properties. The design service volume for collector streets is 1,500 to 8,000 vehicles per day with a design speed of 30 mph.
 - (4) *Primary arterial.* A street primarily intended to provide for high-to-moderate volume, moderate-speed traffic movement between major activity centers. Access to abutting property is subordinate to traffic flow and is subject to the necessary control of entrances and exits. The design service volume for primary arterial streets is 10,000 to 30,000 vehicles per day with a design speed of 35 to 45 mph.
 - (5) *Expressway.* A street primarily intended to provide partial access control and high priority for traffic flow with at-grade signalized intersections for major streets. Intended for high-volume, moderate-to-high speed traffic movement across the metropolitan area with minimal access to adjacent land. May be designed as a highway with separation for adjacent land uses or as a street with controlled access to adjacent land uses. Service access should be provided from lower order streets. The design service volume for expressways is 20,000 to 50,000 vehicles per day with a design speed of 30 to 55 mph.

(Prior Code, § 23-271)

Sec. 115-163. Access to lots.

Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

(Prior Code, § 23-272)

Sec. 115-164. Access to arterial streets.

Whenever a major subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.

(Prior Code, § 23-273)

Sec. 115-165. Entrances to streets.

(a) All driveway entrances and other openings onto streets within the city's planning jurisdiction shall be constructed so that:

- (1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets; and
- (2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

(b) Specifications for driveway entrances are set forth in the city technical specifications manual. If driveway entrances and other openings onto streets are constructed in accordance with the foregoing specifications and requirements, this shall be deemed *prima facie* evidence of compliance with the standard set forth in subsection (a) of this section.

(c) For purposes of this section, the term "*prima facie* evidence" means that the permit-issuing authority may (but is not required to) conclude from this evidence alone that the proposed development complies with subsection (a) of this section.

(Prior Code, § 23-274)

Sec. 115-166. Coordination with surrounding streets.

(a) The street system of a subdivision shall be coordinated with existing, proposed, and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

(b) Collector streets shall interest with surrounding collector or arterial streets at safe and convenient locations.

(c) Local streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

(d) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to

facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

(Prior Code, § 23-275)

Sec. 115-167. Relationship of street to topography.

(a) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and stormwater run-off objectives set forth in the technical specifications manual, and street grades shall conform as closely as practicable to the original topography.

(b) As indicated in section 115-169, the maximum grade at any point on a street constructed without a curb and gutter shall be six percent. On streets constructed with a curb and gutter the grade shall not exceed 12 percent unless no other practicable alternative is available. However, in no case may streets be constructed with grades that, in the professional opinion of the public works director, create a substantial danger to the public safety.

(Prior Code, § 23-276)

Sec. 115-168. Street width, sidewalk, and drainage requirements in subdivisions.

(a) Street rights-of-way are designed and developed to serve several functions:

- (1) To carry motor vehicle traffic, and in some cases, allow on-street parking;
- (2) To provide a safe and convenient passageway for pedestrian traffic; and
- (3) To serve as an important link in the town's drainage system.

In order to fulfill these objectives, all public streets shall be constructed to meet either the standards set forth in subsection (a)(2) or (3) of this section.

(b) All streets shall be constructed with curb and gutter and shall conform to the other requirements of this subsection. Only standard 90-degree curb may be used, except that roll-type curb shall be permitted along minor and local streets within residential subdivisions. Street pavement width shall be measured from curb face to curb face where 90-degree curb is used, and from the center of the curb where roll-type curb is used. Local street designations shall have a minimum street width of 27 feet from back of curb to back of curb with parking allowed on one side of the street only. Local streets requesting parking on both sides of the street shall maintain a minimum street width of 30 feet measured from the back of curb to the back of curb.

<i>Street Type</i>	<i>Minimum Right-of-Way Width (in feet)</i>	<i>Minimum Pavement Width (in feet)</i>	<i>Sidewalk Requirements</i>
Alley/Service		20	
Local	50	27 parking one side; 30 parking both sides	One side

<i>Street Type</i>	<i>Minimum Right-of-Way Width (in feet)</i>	<i>Minimum Pavement Width (in feet)</i>	<i>Sidewalk Requirements</i>
Collector	65	36	One side
Secondary Arterial	80	68	Both sides
Primary Arterial	110	68	Both sides
Expressway	180		

(c) The sidewalks required by this section shall be at least four feet in width, except that the permit-issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

- (1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and
- (2) Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.

(d) Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement of at least ten feet in width to provide such access.

(Prior Code, § 23-277)

Sec. 115-169. General layout of streets.

(a) Local streets in residential areas shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

(b) Cul-de-sacs and loop streets are encouraged so that through traffic on residential streets is minimized. Similarly, to the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(c) All permanent dead-end streets (as opposed to temporary dead-end streets, see section 115-166(d)) shall be developed as cul-de-sacs in accordance with the standards set forth in subsection (d) of this section. Except where no other practical alternative is available, such streets may not extend more than 550 feet (measured to the center of the turnaround).

(d) The right-of-way of a cul-de-sac shall have a radius of 50 feet. The radius of the paved portion of the turnaround (measured to the outer edge of the pavement) shall be 40 feet, and the pavement width shall be 12 feet without curb and gutter or 18 feet with curb and gutter. The unpaved center of the turnaround area shall be landscaped.

(Prior Code, § 23-278)

Sec. 115-170. Street intersections.

(a) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees. Not more than two streets shall intersect at any one point, unless the street superintendent certified to the permit-issuing authority that such an inspection can be constructed with no extraordinary danger to public safety.

(b) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall not be less than 125 feet.

(c) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

(Prior Code, § 23-279)

Sec. 115-171. Construction standards and specifications.

Construction and design standards and specifications for streets, sidewalks, and curbs and gutters are contained in the technical specifications manual, and all such facilities shall be completed in accordance with these standards.

(Prior Code, § 23-280)

Sec. 115-172. Public streets and private roads in subdivisions.

(a) All lots created after the effective date of the ordinance from which this section is derived shall abut a public street at least to the extent necessary to comply with the access requirement set forth in section 115-163. For purposes of this subsection, the term "public street" includes a preexisting public street as well as a street created by the subdivider that meets the public street standards of this chapter and is dedicated for public use. Unless the recorded plat of a subdivision clearly shows a street to be private, the recording of such a plat shall constitute an offer of dedication of such street.

(b) A subdivision in which the access requirement of section 115-163 is satisfied by a private road that meets neither the public street standards nor the standards set forth in section 115-163 may be developed so long as, since the effective date of the ordinance from which this chapter is derived, not more than three lots have been created out of that same tract.

- (1) The intent of this subsection is primarily to allow the creation of not more than three lots developed for single-family residential purposes. Therefore, the permit-issuing authority may not approve any subdivision served by a private road authorized by this subsection in which one or more of the lots thereby created is intended for:
 - a. Two-family or multifamily residential use; or
 - b. Any other residential or nonresidential use that would tend to generate more traffic than that customarily generated by three single-family residences.

- (2) To ensure that the intent of this subsection is not subverted, the permit-issuing authority may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential subdivision served by a private road be smaller than the permissible size of lots on which two-family or multifamily developments could be located or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final approval.
 - (c) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:
 - (1) "Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the city of Nixa Land Development Ordinance."
 - (2) "The policy of the City of Nixa is that, if the city improves the streets (i) that were never constructed to the standards required in the Land Development Ordinance for dedicated streets, and (ii) on which 75 percent of the dwelling units were constructed after the effective date of this chapter, then 100 percent of the costs of such improvements shall be assessed to abutting landowners."
 - (d) The recorded plat of any subdivision that includes a private road shall clearly state that such road is a private road. Further, the initial purchaser of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.
- (Prior Code, § 23-281)

Sec. 115-173. Attention to handicapped in street and sidewalk construction.

Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with all applicable standards.

(Prior Code, § 23-282)

Sec. 115-174. Street names and house numbers.

(a) Street names shall be assigned by the developer subject to the approval of the permit-issuing authority. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the Nixa Area E911 District, regardless of the use of different suffixes (such as those set forth in subsection (b) of this section).

(b) Street names shall include a suffix such as the following:

- (1) *Circle*. A short street that returns to itself.
- (2) *Court or place*. A cul-de-sac or dead-end street.

- (3) *Loop.* A street that begins at the intersection with one street and circles back to end at another intersection with the same street.
- (4) *Street.* All public streets not designated by another suffix.
- (c) Building numbers shall be assigned by the city.

(Prior Code, § 23-283)

Sec. 115-175. Bridges.

All bridges shall be constructed in accordance with the standards and specifications of the state highway and transportation department, except those bridges on roads not intended for public dedication may be approved if designed by a licensed architect or engineer.

(Prior Code, § 23-284)

Sec. 115-176. Utilities.

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in chapter 22, utilities.

(Prior Code, § 23-285)

Chapter 116

RESERVED

Chapter 117

ZONING*

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ARTICLE I. IN GENERAL**Sec. 117-1. Regulations generally.**

Except as hereinafter specifically provided:

- (1) No land shall be used except for a purpose permitted in the district in which it is located.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located, or to exceed the height limit herein established for the district in which such building is located, except in conformance with the off-street parking and loading regulations of the district in which such building is located, and in no case shall there be more than one main building on one lot except as specifically provided hereinafter.
- (3) The minimum yards, parking spaces, and open spaces, including lot area per family, required by this chapter for each and every building existing at the time of passage of the ordinance from which this chapter is derived or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this chapter for the district in which such lot is located.

(Prior Code, § 23-10)

Sec. 117-2. Lots divided by district lines.

(a) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.

(b) Whenever a single lot greater than two acres in size is located within two or more zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

(Prior Code, § 23-18)

Secs. 117-3—117-22. Reserved.**ARTICLE II. ZONING DISTRICTS****Sec. 117-23. Residential districts established.**

The following residential districts are hereby established: AG, R-1, R-4, R-3, and R-5. Each of these districts is designed and intended to secure for the persons who reside there a

comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these districts are explained in the remainder of this section.

- (1) The Agricultural (AG) District is designed to accommodate single-family residential development areas in the city limits that are not yet served by public water or sewer facilities and that are not yet appropriate for development at higher densities. Once public water and sewer facilities have been made available, residences in this district will be able to hook on by following the requirements. This area is also more suitable for uses that would have a negative impact on more dense residential areas. Mobile home parks are permissible in this district with a special use permit.
- (2) The R-1 district is designed primarily to accommodate single-family detached residential uses (other than mobile homes) at lower densities in areas served by public water and sewer facilities. The R-1 zone districts have a minimum lot size requirement of 6,600 square feet.
- (3) The R-4 district is designed to accommodate single-family attached (patio homes with zero lot lines) and two-family. Multifamily uses can occur only in the form of planned residential or planned unit developments. The "4" stands for 4,000 square feet minimum lot size per family.
- (4) The R-3 district is designed primarily to accommodate higher density multifamily developments. Single-family attached and two-family uses can occur only in the form of planned residential or planned unit developments. The "3" stands for 3,000 square feet minimum lot size per family.
- (5) The R-5 district is designed primarily to accommodate medium density multifamily townhouse developments. Single-family attached and two-family uses can occur only in the form of planned residential or planned unit developments. The "5" stands for 5,000 square feet minimum lot size per family.

(Prior Code, § 23-146)

Sec. 117-24. Commercial districts established.

- (a) The following commercial districts are hereby established: CC, NC, O, GC, and HC. These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.
- (b) The City Center (CC) District is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the city's central business district.
- (c) The Neighborhood Commercial (NC) District is designed to accommodate commercial development on a scale that is less intensive than the permitted CC district. A lesser intensity of development is achieved through setback, height, and minimum lot size requirements that are more restrictive than those applicable to the CC zone. The NC district may provide a transition in some areas of the city.

(d) The Transitional Office (O) District is designed to accommodate a mixture of uses (office, clerical, research, services, etc.). It is intended that this zoning classification be applied primarily in areas that no longer are viable as single-family residential areas because of high traffic volumes on adjacent streets or because of other market factors but remain viable as locations for office oriented developments. Such areas will also generally constitute transition or buffer zones between major arterials or more intensively developed commercial areas and residential districts.

(e) The General Commercial (GC) District is designed to accommodate the widest range of commercial activities.

(f) The Highway Commercial (HC) District is designed to accommodate commercial activities that draw business primarily from and provide services primarily to the U.S. Highway 160 and Missouri Highway 14 corridor.

(Prior Code, § 23-147)

Sec. 117-25. Regional commercial overlay districts established.

(a) The purpose of this district is to provide for the development of large-scale integrated retail shopping on a large site with convenient highway access. The Regional Commercial Overlay District is established as a special district which overlays the HC (Highway Commercial) zoned district.

(b) The provisions of this section are designed to ensure that all development activities associated with a regional shopping district will be carried out so as to provide for and maintain:

- (1) Protection of neighboring properties against harmful effects of uses on the development site;
- (2) Convenient and safe access for firefighting and emergency rescue vehicles within the development site and in relation to adjacent streets;
- (3) Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;
- (4) Satisfactory methods of stormwater management as provided in the city's technical specifications;
- (5) Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment for the operation of the establishments on the development site;
- (6) Adequate off-street parking and traffic mitigation measures that will enhance the efficiency of the transportation system as provided in article V of chapter 111;
- (7) Attractive and functional design with due regard to the existing conditions of the development site and the use thereof for a regional shopping center, in order to promote the interests of the city.

- (c) Relationship to underlying districts and regulations.
 - (1) The Regional Commercial Overlay District shall overlay the HC (Highway Commercial) zoned district so that any parcel of land lying in a Regional Commercial Overlay District shall also lie in the zoning district in which it is otherwise classified by this chapter.
 - (2) All regulations of the underlying zoning district shall apply within the Regional Commercial Overlay District to the extent that they are not inconsistent with the specific provisions of section 117-4(a). To the extent the provisions of this section are in conflict with or are inconsistent with other provisions of this chapter, the provisions of this section shall govern and prevail even if such other provisions are more restrictive than those set forth in section 117-4(a).
- (d) Regional Commercial Overlay District development regulations. Land located within the Regional Commercial Overlay District shall be subject to the dimensional controls set forth below:
 - (1) Minimum area of overlay district: 20 acres.
 - (2) Minimum lot size (individual building lots): none.
 - (3) Minimum side, front and rear yards (other than at the perimeter of the defined district boundaries): none.
 - (4) Minimum side, front and rear yard setback (at the perimeter of the defined district boundaries): 15 feet.
- (e) Permitted uses.
 - (1) The Regional Commercial Overlay District is provided to accommodate a concentration of retail stores and entertainment service establishments, including restaurants, movie theaters and such other uses as are customarily found in a regional commercial service sector setting.
 - (2) Regional commercial overlay districts may be subdivided into multiple lots, however, at a minimum one lot shall be developed as a retail facility having a minimum gross square footage of not less than 40,000 square feet under single occupancy.
 - (3) No more than 25 percent of the total gross leasable area of all buildings located within the district shall be devoted to uses other than retail stores and entertainment service establishments.
- (f) Application of requirements.
 - (1) A regional commercial overlay district may consist of more than a single building lot, and in such event the requirements of this subpart pertaining to parking, landscaping and signage shall not be applied to individual building lots, but shall be applied to the entire district as if the development area were a single building lot notwithstanding the fact that the building lots with the district area may be in different ownership.

- (2) The Regional Commercial Overlay District may be developed in phases and may be developed and occupied under one or more building permits and occupancy permits.
(Ord. No. 1723, § 23-147.1, 1-17-2012)

Sec. 117-26. Manufacturing districts established.

- (a) The following districts are hereby established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment: M-1 and M-2.
- (b) The performance standards set forth in division 1 of article VIII of this chapter place limitations on the characteristics of uses located in these districts. The limitations in the M-1 district are more restrictive than those in the M-2 district.
- (Prior Code, § 23-148)

Secs. 117-27—117-55. Reserved.

ARTICLE III. ZONING MAP

Sec. 117-56. Official zoning map.

- (a) There shall be a map known and designated as the official zoning map, which shall show all the boundaries of all zoning districts within the city limits. This map shall be kept in the development department.
- (b) The official zoning map dated May 8, 2006, is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with section 1173-157.
- (c) Should the official zoning map be lost, destroyed, or damaged, the city planner may have a new map drawn. No further city council authorization or action is required so long as no district boundaries are changed in this process.
- (Prior Code, § 23-156; Ord. No. 1421, 5-2006)

Sec. 117-57. Amendments to the official zoning map.

- (a) Amendments to the official zoning map are accomplished using the same procedures that apply to other amendments to this chapter, as set forth in article VII of chapter 101.
- (b) The city planner shall update the official zoning map as soon as possible after amendments to it are adopted by the city council. Upon entering any such amendment on the map, the city planner shall change the date of the map to indicate its latest revision.
- (c) No unauthorized person may alter or modify the official zoning map.
- (d) The development department shall keep copies of superseded prints of the zoning map for historical reference.
- (Prior Code, § 23-157)

Sec. 117-58. Lots divided by district lines.

(a) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.

(b) Whenever a single lot greater than two acres in size is located within two or more zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

(Prior Code, § 23-18)

Secs. 117-59—117-89. Reserved.**ARTICLE IV. APPROVED USES****Sec. 117-90. Table of approved uses.**

The table of approved uses (see section 117-99) should be read in close conjunction with the definitions of terms set forth in section 101-2 and the other interpretative provisions set forth in this article.

(Prior Code, § 23-161)

Sec. 117-91. Use of the designations "X" or "S" in table of approved uses.

Subject to section 117-92, when used in connection with a particular use in the table of approved uses (section 117-99), the letter "X" means that the use meets the requirements of the zoning district and is approved by being eligible for a building permit issued by the development department. The letter "S" means a special-use permit must be obtained from the city council.

(Prior Code, § 23-162)

Sec. 117-92. City council jurisdiction over use otherwise approved with an approved use permit.

(a) Notwithstanding any other provisions of this article, whenever the table of approved uses (interpreted in the light of section 117-91 and the other provisions of this article) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permitted with an approved use permit, a special-use permit shall nevertheless be required if the city planner finds that the proposed use would have an extraordinary impact on neighboring properties or the general public.

(b) In making this determination, the city planner shall consider, among other factors, whether:

- (1) The use is proposed for an undeveloped or previously developed lot;
- (2) Whether the proposed use constitutes a change from one principal use classification to another;

- (3) Whether the use proposed for a site that poses peculiar traffic or other hazards or difficulties; and
 - (4) Whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are approved on the zoning district in question.
 - (c) The special-use permit request must be heard and determined by the city council in a regularly scheduled meeting.
- (Prior Code, § 23-163)

Sec. 117-93. Approved uses and specific exclusions.

- (a) The presumption established by this chapter is that all legitimate uses of land are approved within at least one zoning district in the city limits. Therefore, because the list of approved uses set forth in section 117-99 (table of approved uses) cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
 - (b) Notwithstanding subsection (a) of this section, all uses that are not listed in section 117-90 (table of approved uses), even given the liberal interpretation mandated by subsection (a) of this section, are prohibited. Nor shall section 117-99 (table of approved uses) be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is approved in other zoning districts.
 - (c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:
 - (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the city's fire prevention code.
 - (2) Stockyards, slaughterhouses, and rendering plants.
 - (3) Use of a travel trailer as a temporary or permanent residence. (Situations that do not comply with this subdivision on the effective date of the ordinance from which this chapter is derived are required to conform within one year. See section 101-266.)
 - (4) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. (Situations that do not comply with this subdivision on the effective date of this chapter are required to conform within 90 days. See section 101-266.)
- (Prior Code, § 23-164)

Sec. 117-94. Accessory uses.

(a) The table of approved uses (section 117-99) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use:

- (1) Constitutes only an incidental or insubstantial part of the total activity that takes place on a lot; or
 - (2) Is commonly associated with the principal use and integrally related to it then the former use may be regarded as accessory to the principal use and may be carried beneath the umbrella of the permit issued for the principal use.
- (b) For purposes of interpreting subsection (a) of this section:
- (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;
 - (2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(c) Without limiting the generality of subsections (a) and (b) of this section, the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:

- (1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.
- (2) Hobbies or recreational activities of a noncommercial nature.
- (3) The renting out of one or two rooms within a single-family residence (neither of which constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single-family dwelling.
- (4) Yard sales or garage sales, so long as such sales comply with the provisions of chapter 12, article IV of this Code.

(Prior Code, § 23-165; Ord. No. 2352, § 2, 4-22-2024)

Sec. 117-95. Home occupations.

(a) A home occupation is that accessory use of a dwelling unit that shall constitute either entirely or partly the livelihood of a person living in the dwelling, subject to the following: No home occupation shall be permitted that:

- (1) Changes the outside appearance of the dwelling or is visible from the street;

- (2) Generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood;
- (3) Creates a hazard to person or property, results in electrical interference or becomes a nuisance;
- (4) Results in outside storage or display of anything.

(b) The following are permitted home occupations, provided they do not violate any of the provisions of subsection (a) of this section:

- (1) Dressmaking, sewing, and tailoring;
- (2) Painting, sculpturing or writing;
- (3) Telephone answering;
- (4) Home crafts, such as model making, rug weaving, lapidary work and cabinet making;
- (5) Tutoring, limited to four students at a time;
- (6) Home cooking and preserving;
- (7) Office uses, such as computer programming, telemarketing, desktop publishing;
- (8) Barbershops and beauty parlors with only one chair;

(c) The following are prohibited as home occupations:

- (1) Barbershops and beauty parlors with more than one chair;
- (2) Animal hospitals;
- (3) Dancing studios;
- (4) Mortuaries;
- (5) Nursery schools;
- (6) Private clubs;
- (7) Repair shops;
- (8) Restaurants;
- (9) Stables or kennels;
- (10) Tourist homes;
- (11) Automobile repair or paint shops.

(d) Any proposed home occupation that is neither specifically permitted or prohibited by subsection (b) or (c) of this section shall be considered a special-use and be granted or denied by the city council based upon considerations of those standards listed in subsection (a) of this section and issued in accordance with section 101-141.

(Prior Code, § 23-166)

Sec. 117-96. Approved uses not requiring permits.

Notwithstanding any other provisions of this chapter, no approved use permit, special-use permit, or preliminary plat approval is necessary for the following uses:

- (1) Streets.
- (2) Electric power, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.
- (3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way.

(Prior Code, § 23-167)

Sec. 117-97. Change in use.

(a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

- (1) The change involves a change from one principal use category to another.
 - (2) If the original use is a planned unit development, the relative proportion of space devoted to the individual principal uses that comprise the planned unit development use changes to such an extent that the parking requirements for the overall use are altered.
 - (3) If the original use is a planned unit development use, the mixture of types of individual principal uses comprise the planned unit development use changes.
 - (4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.
 - (5) If there is only one business or enterprise conducted on the lot (regardless of whether that business consists of one individual use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business may be classified under the same principal use as the previous business).
- (b) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.
- (c) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

(Prior Code, § 23-168)

Sec. 117-98. More specific use controls.

Whenever a development could fall within more than one use classification in the table of approved uses (section 117-99), the classification that most closely and most specifically describes the development controls.

(Prior Code, § 23-169)

Sec. 117-99. Table of approved uses.

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
I. RESIDENTIAL														
A. Single-family residences														
Single-family detached lot, one dwelling unit per lot	X	X												
Modular structures													X	
Single-family attached, patio homes			X											
Mobile home park (only location for mobile homes)														X
B. Two-family														
Primary residence with accessory apartment		X												
Duplex			X											
C. Multifamily Residence														
Multifamily medium density						X								
Multifamily high density						X								
D. Homes emphasizing special services, treatment, or supervision														
Homes for the handicapped or infirm	S	S	S	S	S	S	S	S	S	S				

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Nursing care, intermediate care homes				S	S									
Halfway houses		S	S	S	S						S	S		
Institutions (other than halfway houses) where mentally ill persons are confined														
Penal and correctional facilities											S	S		
E. Miscellaneous, rooms for rent situations														
Rooming houses, boardinghouses				S	S			S		S				
Short-term residential rental		X	X	X										
Tourist homes and other temporary residences renting by day or week.		S	S	S			S							
Hotels, motels and similar businesses or institutions providing overnight accommodations											X	X		
F. Home occupations														
II. BUSINESS, PROFESSIONAL, & PERSONAL SERVICES														

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Accounting, auditing, or bookkeeping						X	X	X	X	X				
Administrative or management services						X	X	X	X	X				
Advertising agencies or representatives						X	X	X	X	X				
Automobile rental or leasing										X	X			
Automobile repair services									S	X	X			
Automobile repair services (including body work)										S	X	X		
Automobile parking, (park and ride)									S	X	X			
Automobile towing and storage services											X			
Banks, savings & loans, or credit unions						X	X	X	X	X				
Barbershops						X	X			X	X			
Beauty shops							X	X		X	X			
Boat repairs											S	X	X	
Building maintenance services (janitorial service)											S	X	X	

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Business associations					X	X	X	X	X	X				
Car washes					S		X							
Child day-care center					X		X	X	X	X				
Clothing alterations or repairs					X	X		X		X				
Computer maintenance services					X	X	X	X		X				
Economic, sociological, or educational research					X		X	X		X				
Employment agencies, personnel agencies					X		X	X		X				
Engineering, architect, or survey services					X		X	X		X				
Equipment, rental & leasing (no outside storage)														
Equipment rental & leasing (w/outside storage)										S	X	X		
Equipment repairs (outdoor storage)											X	X		

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Finance or loan offices					X	X	X	X	X	X				
Funeral homes or crematoriums				X	S	S	X	X						
Furniture repair shops							X	X	X					
Insurance agencies (no on-site claims inspections)				X	X	X	X	X	X					
Insurance agencies (carriers/on-site claims)										X				
Kennels (without outdoor runs)										X	X	X		
Kennels (with outdoor runs)							S		S	S				
Pet grooming services (without outdoor runs)										X	X	X		
Pet grooming services (with outdoor runs)							S		S	S				
Laundromats, coin-operated and drop off service only						X				X	X			
Laundry or dry cleaning										X	X	X		
Law offices						X	X	X	X	X				

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Medical, dental or related offices						X	X	X	X	X				
Noncommercial research organizations						X	X	X	X	X				
Office uses not otherwise classified						X	X	X	X	X				
Pest or termite control services										X	X	X		
Photo-finishing laboratories										X	X	X		
Photography studios						X	X	X	X	X				
Professional membership organizations						X	X	X	X	X				
Real estate offices						X	X	X	X	X				
Recreational vehicle parks or campsites	S									X	X	X		
Refrigerator or large appliance repairs										X	X	X		
Rehabilitation or counseling services										X	X	X		
Research, development, or testing services										X	X	X		
Security services										X	X	X	X	

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Septic tank services (with outdoor stor- age)											X			
Septic tank services (without outdoor storage)										S	X	X		
Shoe repair or shoe- shine shops					X	X			X	X	X	X		
Stock, security, or commodity brokers					X	X	X	X	X	X	X	X		
Tanning salons						X				X	X			
Taxidermists						X				X	X			
Television, radio, or electronic repairs										X	X			
Theaters, outdoor											S	X		
Theaters, indoor											X	X		
Travel agencies						X	X	X	X	X	X	X		
Truck driving schools											X	X	X	
Truck & utility trailer rent & leas- ing, light														
Truck & semi rental & leasing, heavy											X	X		
Truck washing											X	X		
Veterinary services (with outdoor facili- ties)										S	S	X		

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Veterinary services (without outdoor facilities)					X	X		X	X	X				
Welding shops											X			
Medical Marijuana Dispensary						X	X	X	X	X				
III. RETAIL TRADE														
ABC stores (liquor)							S		X	X				
Antique stores						X	X		X	X				
Appliance stores							X		X	X				
Arts & crafts						X	X		X	X				
Auto supply stores							X		X	X				
Bakeries						X	X		X	X				
Bars (with restaurant)							S		X	X				
Boat sales									S	X	X			
Bookstores						X	X		X	X				
Building supply sales (no storage yard)									S	X	X			
Building supply sales (with storage yard)										X	X			
Cake decorating supply stores								X	X	X	X			
Camera stores								X	X	X	X			
Candle shops								X	X	X	X			
Candy stores								X	X	X	X			

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Clothing, shoe, and accessory stores						X	X		X	X				
Coin, stamp, or similar collectible shops						X	X		X	X				
Computer sales						X	X		X	X				
Convenience stores (with fuel pumps)						X			X	X				
Convenience stores (without fuel pumps)						X	X		X	X				
Cosmetic shops						X	X		X	X				
Dairy products stores						X	X		X	X				
Department, variety or general merchandise stores						X	X		X	X				
Drugstores						X	X		X	X				
Fabric or piece goods stores						X	X		X	X				
Flea markets, indoor									X	X				
Flea markets, outdoor										X				
Floor covering, drapery, or upholstery											X	X		
Florists							X	X		X	X	S	X	
Fuel oil sales										X	X	X	X	
Furniture sales														

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Garden centers or retail nurseries						S		X	X					
Gift or card shops					X	X		X	X					
Grocery stores						S		X	X					
Hardware stores (with outside storage)								S	X					
Hardware stores (without outside storage)					X	X		X	X					
Hobby shops						X	X		X	X				
Home furnishings, Miscellaneous						X	X		X	X				
Intoxicating liquor sales								X	X					
Jewelry stores						X	X		X	X				
Long-term mobile retail							X		X	X				
Luggage or leather goods stores						X	X		X	X				
Manufactured home sales									S	X				
Miscellaneous retail sales						X	X		X	X				
Mobile food truck park							X		X	X				
Motor vehicle sales (new and used)									S	X	X			

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Motorcycle sales (outside sales)										S	X	X		
Motorcycle sales (inside sales only)									X	X	X	X		
Musical instrument sales					X	X			X	X				
Newsstands					S	S	S	S	S	S	S	S		
Office machine sales					X	X	X	X	X	X	X	X		
Optical goods sales					X	X	X	X	X	X	X	X		
Paint and wallpaper sales					X	X	X	X	X	X	X	X		
Pawnshops									X	X	X	X		
Pet stores						S	X	X	X	X	X	X		
Recreational vehicle sales (outside sales)									X	X	X	X		
Recreational vehicle sales (inside sales only)									X	X	X	X		
Restaurants (drive in)										X	X	X		
Restaurants (with drive-thru)							S		X	X	X	X		
Restaurants (no drive-thru)							X		X	X	X	X		
Sporting goods stores							X	X		X	X	X		
Stationery stores							X	X	X	X	X	X		

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Television radio, or electronic sales					X	X			X	X				
Temporary mobile retail						X								
Tire sales									X	X				
Tobacco sales					X				X	X				
Truck stops									X	X				
Used merchandise stores									X	X				
Video/game rental and sales						X	X		X	X				
IV. WHOLESALE TRADE														
Agricultural chemical/pesticides/fertilizers											X	X		
Agricultural products, other										X	X	X		
Ammunition										X	X	X		
Animals and animal products, other										X	X	X		
Apparel, piece goods, and notions										X	X	X		
Beer/wine/distilled alcoholic beverages										X	X			
Books, periodicals, and newspapers										X	X	X		
Chemicals and allied products											X	X		

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Drugs and sundries											S	X	X	
Durable goods, other											X	X		
Electrical goods							X				X	X		
Farm supplies, other										X	X			
Flowers, nursery stock, & florists supplies								S	X	X				
Furniture and home furnishings									X	X	X			
Grain and field beans										X	X			
Groceries and related products							S		X	X				
Hardware										X	X			
Jewelry, watches, precious stones & metals						X	X		X	X				
Livestock											X			
Lumber and other construction materials											X	X		
Lumber, millwork, and veneer											S	X	X	
Machinery, construction and mining												X		
Machinery, equipment, and supplies												X		

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Machinery, farm and garden										X	X			
Market showrooms, (furniture, apparel, etc.)						S		X		X				
Metals											X			
Minerals											X			
Motor vehicles										S	X	X		
Motor vehicles, parts and supplies										X	X	X		
Motor vehicles, tires and tubes										X	X			
Paints and varnishes										X	X			
Paper and paper products										X	X	X		
Petroleum and petroleum products											X	X		
Plastics materials											X	X		
Plumbing and heating equipment											X	X		
Professional & commercial equipment sales											X			
Scrap and waste materials												X		

USE DESCRIPTION	AG	R-1	R-4	R-3	R-5	CC	NC	O	GC	HC	M-1	M-2	R-MHS	R-MHC
Sporting & recreational goods & supplies									X	X	X			
Tobacco and tobacco products						X			X	X				
Toys and hobby goods and supplies							X	X		X	X			
Wallpaper and paint brushes								X	X					
V. TRANSPORTATION, WAREHOUSING & UTILITIES														
Airports or air transportation facilities										X				
Bulk mail and packaging									S	X				
Bus terminals									X	X				
Communication and broadcasting facilities									S	X				
Hazardous & radioactive waste											X			
Heliports											X	X		
Land clearing & inert debris landfills, major											X	X		
Land clearing & inert debris landfills, minor														

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Moving and storage services										X	X			
Multimodal transit centers							X			X	X			
Radio, television, or communications towers									X	X	X			
Railroad terminals or yards										X	X			
Recycling processing centers										X	X			
Refuse and raw material hauling										X	X			
Refuse and raw material transfer points										X				
Solid waste disposal (non-hazardous)										X				
Taxi terminals										X				
Trucking and freight terminals										X	X			
Utility company offices								S	X	X				
Utility equipment and storage yard										X				
Utility and lines and related appurtenances											X			

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Utility service facilities (no outside storage)									S	X	X			
Warehouses (general storage/enclosed)											X	X		
Wireless telecommunications towers 50 feet tall or less	X	X	X	X	X	X	X	X	X	X	X	X		
Wireless telecommunications towers more than 50 feet tall											S	S		
Wireless telecommunications antennas mounted on city owned structures	S	S	S	S	S	S	S	S	S	S	S	S	S	S
VI. MANUFACTURING AND INDUSTRIAL USES														
Aircraft assembly											X	X		
Aircraft engines and engine parts											X	X		
Aircraft parts and auxiliary equipment											X	X		
Ammunition, small arms											X	X		
Animal feeds (including dog & cat)											X	X		
Animal slaughter and rendering											S	X		

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Apparel and finished fabric products											X	X		
Arms and weapons										X	X			
Artisans and crafts										X	X			
Asbestos, abrasive, and related products										S	X			
Asphalt plants										X				
Audio, video, and communications equipment										X	X			
Bakery products										X	X			
Batteries										X	X			
Beverage products (alcoholic)										X				
Beverage products (non-alcoholic)										X				
Bicycle assembly										X				
Bicycle parts and accessories										X				
Boat and ship building										X	X			
Brooms and brushes										X				
Burial caskets										X				
Chemicals, paints, and allied products										X	X			
Coffee											X			

<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Comprehensive marijuana cultivation facility (indoor only)											X	X		
Comprehensive marijuana dispensary facility (indoor only)					X	X	X	X	X					
Comprehensive marijuana-infused products manufacturing facility (indoor only)											X	X		
Computer and office equipment											X			
Communications equipment											X			
Concrete, cut stone, and clay products											X	X		
Contractors (no outside storage)											X	X		
Contractors (outside storage)											X	X		
Contractors, general building											X			
Contractors, heavy construction											X	X		

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Contractors, special trade											X			
Costume jewelry and notions										X				
Dairy products stores										X				
Drugs										X	X			
Electrical components										X	X			
Electrical industrial apparatus, assembly and manufacturing										X	X			
Fabricated metal products										X	X			
Fabricated valve and wire products										X	X			
Fats and oils, animal											X			
Fats and oils, plants										X	X			
Fish, canned, cured, or frozen											X			
Floor coverings											X	X		
Food and related products, miscellaneous											X	X		
Furniture framing											X			
Furniture and fixtures											X			
Glass												X		

USE DESCRIPTION	AG	R-1	R-4	R-3	R-5	CC	NC	O	GC	HC	M-1	M-2	R-MHS	R-MHC
Glass products from purchased glass											X			
Grain mill products											X	X		
Heating equipment, and plumbing fixtures											X	X		
Household appliances											X	X		
Household audio and video equipment											X			
Ice											X			
Industrial and commercial machinery											X	X		
Jewelry and silverware (no plating)											X			
Leather and leather products (no tanning)											X			
Lighting and wiring equipment												X		
Logging and wood, raw materials													X	
Manufactured housing and wood buildings													X	

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<i>USE DESCRIPTION</i>	<i>AG</i>	<i>R-1</i>	<i>R-4</i>	<i>R-3</i>	<i>R-5</i>	<i>CC</i>	<i>NC</i>	<i>O</i>	<i>GC</i>	<i>HC</i>	<i>M-1</i>	<i>M-2</i>	<i>R-MHS</i>	<i>R-MHC</i>
Measurements, analysis, and control instruments											X			
Meat/poultry, pack- ing & processing (no rendering)										X	X			
Medical, dental and surgical equipment										X				
Metal coating and engraving										X	X			
Metal processing											X			
Millwork, plywood, and veneer										S	X			
Mining and quarry- ing											X			
Motor vehicle assembly											X			
Motor vehicle parts and accessories											X	X		
Motorcycle assembly											X	X		
Musical instruments											X			
Paper products production												X		
Paperboard container and boxes												X		
Pens and art sup- plies												X		

USE DESCRIPTION	AG	R-1	R-4	R-3	R-5	CC	NC	O	GC	HC	M-1	M-2	R-MHS	R-MHC
Petroleum and related products											X			
Pharmaceutical preparations											X	X		
Photographic equipment											X	X		
Photographic supplies											X			
Pottery and related products											X			
Preserved fruits and vegetables (no can mfg.)											X			
Primary metals products and foundries											X			
Printing and publishing											X			
Pulp and paper mills												X		
Rubber and plastics, miscellaneous											X	X		
Rubber and plastics, raw												X		
Salvage yards, auto parts												X		
Salvage yards, scrap processing												X		

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Sawmills or planing mills											X			
Signs										X				
Small arms										X	X			
Soaps and cosmetics										X	X			
Sporting goods and toys										X	X			
Stone cutting, shaping and finishing (for interior use only)										X	X			
Sugar and confectionery products										X	X			
Surface active agents										X				
Textile products (no dyeing & finishing)										X				
Tires and inner tubes											X			
Tobacco products											X	X		
Wood containers											X			
Wood products, miscellaneous											X	X		
Medical Marijuana Cultivation Facility (indoor only)											X	X		

USE DESCRIPTION	AG	R-1	R-4	R-3	R-5	CC	NC	O	GC	HC	M-1	M-2	R-MHS	R-MHC
Medical Marijuana Infused-Products Manufacturing Facility(indoor only)											X	X		
Medical Marijuana Testing Facility (indoor only)														
Microbusiness dispensary facility					X	X	X	X						
Microbusiness wholesale facility									X	X				
VII. OTHER USES														
Christmas tree farms (includes sales)	X													
Outdoor retail sales								S	S		S			
Sexually oriented business											S	S		
Temporary construction office, construction equipment storage, real estate sales or rental offices (with concurrent building permit for permanent building)														
Temporary events	S	S	S	S	S	S	S	S	S	S	S	S	S	S

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Arts and crafts shows									S	S				
Carnivals and fairs									S	S				
Concerts, stage shows	S								S					
Yard sales (2 per year max)	X	X	X	X										
Adult business (as defined in § 16-381)											X	X		

VIII. PUBLIC UTILITIES AND FACILITIES

Ambulance service, rescue squad	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fire station	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Municipal buildings	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Police station	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Public schools	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Utility facilities (substations, lift stations, wells, water towers, etc.)	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Waste treatment plant	X	X	X	X	X	X	X	X	X	X	X	X	X	X
IX. EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL FRATERNAL														
Colleges, universities, community colleges	X	X	X	X	X	X	X	X	X	X	X	X	X	

USE DESCRIPTION	AG	R-1	R-4	R-3	R-5	CC	NC	O	GC	HC	M-1	M-2	R-MHS	R-MHC
Churches, synagogues, and temples (including associated residential structures for personnel and related buildings)	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Elementary and secondary schools, private	X	X	X	X	X	X	X			X				
Libraries, museums, art galleries, art centers and similar uses	S	S	S	S	S	X	X	X	X					
Social clubs, fraternal lodges, union halls						X	X		X					
Trade or Vocational Schools						X			X		X	X		

(Prior Code, §§ 3-26, 3-47, 14-56, 23-171; Ord. No. 1085, 5-1999; Ord. No. 1258, 7-2003; Ord. No. 1591, 6-2009; Ord. No. 1722, 1-17-2012; Ord. 1982, § I, 2-26-2018; Ord. No. 2061, § II, 6-24-2019; Ord. No. 2288, § 1, 2, 11-28-2022; Ord. No. 2299, § 4, 3-8-2023; Ord. No. 2350, § 3, 3-25-2024; Ord. No. 2351, § 1, 3-25-2024; Ord. No. 2356, § 2, 5-28-2024)

Sec. 117-100. Building permit procedures; requirements.

(a) It shall be the duty of the city planner to designate the building inspector to administer and enforce the regulations herein.

(b) It shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, razing or moving of any building or any portion thereof without first having applied in writing to the building supervisor for a building permit to do so and having been granted a building permit therefor.

(c) Every application for a building permit shall be in writing and delivered to the city planner and shall be accompanied by a detailed set of plans, in triplicate, showing the 1475 size of the proposed building or structure, location of the building on the lot, the details and type of construction to be used, and any necessary stormwater drainage pipes (12-inch RCP or CMP minimum). Upon the issuance of a permit, two sets of plans shall be retained by the city planner for a permanent record and one set shall be returned to the applicant.

(d) Agricultural buildings in AG zones are exempt from building permit procedures.

(e) Blank forms shall be provided by the city planner for the use of those applying for permits as provided for in this article. Any permits issued by the city planner shall be on standard forms for such purpose and furnished by the city.

(f) A careful record of all such applications, plans, and permits shall be kept in the development department.

(g) The fee for application of a building permit shall be the amount forth in section 2-151 of this Code.

(h) The issuance of a building permit by the city does not indicate approval of the plans, materials, construction type or methods by the city and does not create any warranty to the person to whom the permit is issued or to any third persons.

(Prior Code § 23-170; Ord. No. 2331, § 28, 10-23-2023)

Sec. 117-101. Marijuana related uses.

(a) No building shall be constructed, altered or used for a marijuana use without complying with the use regulations of this section.

(1) No marijuana use shall be located within 200 feet of any existing school, day care, or church. For purposes of this provision, distance shall be determined as follows:

- a. In the case of a freestanding facility, the distance between the facility and the school, day care, or church shall be measured from the external wall of the facility structured closest in proximity to the school, daycare, or church to the closest point of the property line of the school, day care, or church.
- b. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, day care,

or church shall be measured from the property line of the school, day care, or church to the facility's entrance or exit closest in proximity to the school, day care, or church.

- c. If the school, day care, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, day care, or church closest in proximity to the facility.
 - d. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled.
- (2) *Outdoor operations or storage prohibited.* All operations and all storage of materials, products, or equipment shall be within a fully enclosed building. No outdoor operations or storage shall be permitted.
- (3) *Onsite usage prohibited.* No marijuana may be smoked, ingested, or otherwise consumed on the premises unless authorized by state law and necessary for the purposes of operating a marijuana testing facility or a marijuana-infused products manufacturing facility.
- (4) *Display of licenses required.* A current marijuana license issued by the state and city Business license shall be displayed in an open and conspicuous place on the premises.
- (5) *Ventilation required.* All facilities shall install and operate a ventilation system that will prevent any odor of marijuana from leaving the premises of the business. No odors shall be detectable by a person with a normal sense of smell outside the boundary of the parcel on which the facility is located.
- (6) The specific marijuana use must be a permitted use for the property as provided in section 117-99.
- (b) *Definitions.* Notwithstanding any other provisions of this Code to the contrary, for the purposes of this section, the following words, terms, and phrases shall have the meaning ascribed to them:

Church means a permanent building primarily and regularly used as a place of religious worship.

Day care means a child-care facility, as defined by RSMo 210.201, or successor provisions, which is licensed with the state.

School means an elementary or secondary school.

- (c) The intent of this section is to implement the provisions of Article XIV Section 1 and 2 of the Missouri Constitution. Therefore, the provisions of this section, and the applicable definitions contained in section 101-2 of this city Code, shall be interpreted, and enforced with reference to said Article.

(Ord. No. 2061, § III, 6-24-2019; Ord. No. 2299, § 3, 3-8-2023)

Sec. 117-102. Short-term residential rental uses.

(a) *Purpose.* The purpose of this section is to preserve and promote the health, safety, and general welfare of the public by promoting compatibility among land uses within the community through regulations intended to minimize the harmful or nuisance effects resulting from noise, location, traffic, and other objectionable activities associated with short-term residential rental uses.

(b) *Definitions.* The terms set forth below shall be defined as follows for purposes of this section:

- (1) *Short-term residential rental:* The renting of an entire residential dwelling unit, or any portion thereof, for a period of not more than 30 consecutive days.
- (2) *Primary residence rental:* A short-term residential rental consisting of a residential dwelling unit which is the owner or lessor's domicile.
- (3) *Non-primary residence rental:* A short-term residential rental consisting of a residential dwelling unit which is not the owner or lessor's domicile.

(c) *Primary residence rental use standards.* The operation of a primary residence rental use shall comply with the following use standards:

- (1) A business license shall be obtained prior to engaging in a primary residence rental use.

(d) *Non-primary residence rental use standards.* The operation of a non-primary residence rental use shall comply with the following use standards:

- (1) No detached building or structure shall be used as a non-primary residence use.
- (2) A business license and use permit shall be obtained prior to engaging in a non-primary residence rental use.
- (3) Prior to the issuance of a business license and use permit, a certificate of occupancy shall be acquired.
- (4) Prior to the issuance of a certificate of occupancy, the non-primary residence rental use shall pass a rental inspection conducted pursuant to section 103-31 of this Code.

(Ord. No. 2074, § I, 8-26-2019; Ord. No. 2356, § 1, 5-28-2024)

Secs. 117-103—117-126. Reserved.

ARTICLE V. MANUFACTURED HOUSING

DIVISION 1. GENERALLY

Sec. 117-127. 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:

Factory-built housing means a structure designed for long-term residential use. For the purpose of these regulations, factory-built housing consists of three types: manufactured, mobile, and modular homes.

Manufactured home means a factory-built structure which bears the seal of the state public service commission, U.S. Department of Housing and Urban Development, or its agent, and which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, contains 320 or more square feet, equipped with the necessary service connections and made as so to be readily moveable as a unit on its own running gear and designed to be used as a dwelling unit with or without a permanent foundation.

Mobile home means a transportable factory-built home, designed to be used for yearround residential occupancy and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 16, 1976.

Modular home means a factory-built transportable structure, which does not have its own running gear and bears the seal of the state public service commission or is built to the International Residential Code (IRC) as adopted by the city and is designed to be used for residential occupancy.

(Prior Code, § 23-412)

Sec. 117-128. Purpose.

The purpose of this article is to provide regulations pertaining to the placement of pre-manufactured housing. These regulations are intended to provide compliance with the goals, policies, and objectives of the city's adopted comprehensive plan by promoting the public health, safety and welfare, lessening traffic congestion, preventing undue concentration of population and facilitating the adequate provision of utility infrastructure.

(Prior Code, § 23-411)

Sec. 117-129. Compliance.

This article is intended to be a supplement to the requirements and regulations of this subpart, working in conjunction with other city ordinances. Development applications submitted under this article must also comply with all requirements of this subpart and other applicable city ordinances.

(Prior Code, § 23-413)

Sec. 117-130. Zoning districts established.

The following zoning districts are established for the placement of factory-built housing:

- (1) R-MHS (residential modular home subdivision). The residential modular home subdivision zoning district is established to accommodate the placement of factory-built modular homes designed for residential occupancy under the guidelines established in this article . Subdivision design and review are subject to procedures established in article III of chapter 101 and this chapter.
- (2) R-MHC (residential manufactured home community). The residential manufactured home community zoning district is established to accommodate the placement of

manufactured and mobile homes intended for residential occupancy under the guidelines established in this article . Subdivision design and review are subject to procedures established in article III of chapter 101 and this chapter.

(Prior Code, § 23-414)

Secs. 117-131—117-158. Reserved.

**DIVISION 2. DEVELOPMENT STANDARDS FOR THE R-MHS RESIDENTIAL
MODULAR HOME SUBDIVISION DISTRICT**

Sec. 117-159. District regulations.

This division applies to the R-MHS Residential Zoning District. Such district is established for the placement of modular housing intended for single-family occupancy. Modular structures shall be placed on permanent foundations meeting the single-family foundation building requirements adopted by the city.

(Prior Code, § 23-415)

Sec. 117-160. Use limitations.

The following limitations apply to uses in the R-MHS Residential District:

- (1) Recreational vehicles shall not be setup or occupied as a dwelling.
- (2) Modular or manufactured home sales lot shall not be permitted.
- (3) One principal single-family structure per lot.

(Prior Code, § 23-46)

Sec. 117-161. General requirements.

In addition to the subdivision design requirements found in article III of chapter 101 and in this chapter, development applications submitted for a modular home subdivisions must comply with the following requirements:

- (1) All modular homes shall be placed on a permanent foundation in compliance with the adopted building code of the city.
- (2) The side of the residential unit that is the widest must face the front of the subdivision lot.
- (3) The minimum size of a tract of land to be subdivided as a modular home subdivision shall not be less than two acres.
- (4) Each lot shall contain an area of not less than 6,000 square feet.
- (5) Each lot shall front upon a public street right-of-way in accordance with this chapter 115.
- (6) No lot shall be less than 60 feet in width; corner lots shall not be less than 70 feet in width.

- (7) No lot shall be less than 100 feet in depth.
(Prior Code, § 23-417)

Secs. 117-162—117-190. Reserved.

**DIVISION 3. DEVELOPMENT STANDARDS FOR THE R-MHC RESIDENTIAL
MANUFACTURED HOME COMMUNITY**

Sec. 117-191. District regulations.

This division applies to the R-MHC Residential Zoning District. Such district is established to accommodate manufactured and mobile single-family housing in a park-like atmosphere. The intent of the R-MHP district is to provide for the orderly and unified planning and development of manufactured and mobile home communities, to assure the provision of facilities and amenities appropriate to the needs of residents of mobile home communities and to ensure a harmonious relationship between manufactured and mobile home communities and adjoining land uses.

(Prior Code, § 23-418)

Sec. 117-192. Use limitations.

The following limitations apply to uses in the R-MHC Residential District:

- (1) Recreational vehicles shall not be setup or occupied as a dwelling unit.
- (2) Manufactured home sales lot shall not be permitted.
- (3) Separate city utilities shall be provided per lot.
- (4) One principal structure per lot.

(Prior Code, § 23-419)

Sec. 117-193. General requirements.

In addition to the subdivision requirements found in article III of chapter 101 and in chapter 115, development applications submitted for a mobile home park must comply with the following requirements:

- (1) The minimum size of tract of land to be subdivided as a manufactured home community shall not be less than two acres.
- (2) A minimum of 15 percent of the gross area of the manufactured home community shall be provided as park area.
- (3) A minimum of 30 percent of the gross area of each mobile home lot shall be provided as usable livable open space.
- (4) The minimum lot size shall be 4,000 square feet.
- (5) The minimum lot width shall be 40 feet.

- (6) The minimum separation between homes in the R-MHC district shall be ten feet.
- (7) There shall be no private streets. All streets in the R-MHC district shall be public streets dedicated to the city. All streets shall meet the requirements of division 4 of article III of chapter 101.
- (8) For sites over five acres, a clubhouse and/or other common recreation facilities shall be provided. Plans for recreational facilities shall be submitted at the time of preliminary plat for review and recommendation by the planning and zoning commission and review and approval by the city council.
- (9) All mobile and manufactured homes shall have tie downs in accordance with applicable provisions of the IRC building code as adopted by the city.
- (10) When adjacent to or across the street from a residential use other than R-MHC, or when required by the city council due to location, opaque screening consisting of a decorative fence, wall, landscaping or earth mounds of six feet in height shall be provided around the perimeter of the site to screen the manufactured home community from view.
- (11) Parking shall be provided according to the single-family requirements found in article V of chapter 111. All off-street parking spaces provided shall be hard-surfaced with material meeting the definition of paving. At a minimum, a required off-street parking space shall be at least nine feet in width and at least 20 feet in length.

(Prior Code, § 23-420)

Sec. 117-194. Additional design requirements.

If, in the course of reviewing the application for a manufactured home community, the planning and zoning commission or the city council deem it necessary to apply other conditions of approval more restrictive than those outlined herein, such conditions may be required to make the development compatible with either the existing or proposed environment.

(Prior Code, § 23-421)

Secs. 117-195—117-211. Reserved.

ARTICLE VI. PLANNED UNIT DEVELOPMENT (PUD)

DIVISION 1. GENERALLY

Sec. 117-212. Purpose.

- (a) The planned unit development (PUD) procedures provides the property owner/developer with a more flexible means to develop land, to use a more innovative design, while assuring greater bona-fide benefits to the community. Its intent is to encourage a freer and more imaginative design than is possible under the conventional zoning regulations by eliminating minimum lot sizes, setbacks, and other zoning and subdivision related restrictions.

(b) The information in this article is intended to assist the developer in achieving compliance with the PUD procedures prior to incurring costs of complete design, while providing the city with the assurance that the project will retain the character presented at the time of acceptance. The following reflects the city's PUD objectives:

- (1) To stimulate a creative approach to designing residential, commercial and industrial land use developments.
- (2) To provide a means to use land more efficiently.
- (3) To preserve and integrate, to the greatest extent possible, the existing natural landscape features, (e.g., trees, streams, and topography).
- (4) To accommodate more usable and suitably located private or public recreational facilities than would otherwise be provided under conventional zoning regulations.
- (5) To encourage a greater diversification and mixture of land uses, in order to facilitate self-sustainability of the development, architecturally integrated structures and passive and active recreational open space areas.

(Prior Code, § 23-196)

Sec. 117-213. PUD zoning.

(a) The PUD zoning district may be established through initial zoning at the time of annexation, rezoned at the time of development, or as an overlay to the approved underlying zone district. The establishment of the three types of PUDs allows for the applicant to cater a PUD application to the specific needs of the development. The three types of PUDs outlined in this article are Planned Unit Development Residential (PUD-R), Planned Unit Development Commercial (PUD-C), Planned Unit Development Industrial (PUD-I) and Planned Unit Development Mixed Use (PUD-MU).

(b) The following classifications of the planned unit development shall be used as an overlay or requires rezoning where consistent with the city plan or applicable zoning:

	<i>Overlay in City</i>	<i>Rezone in City</i>	<i>New Zone Annexation</i>
PUD-R	Yes	No	Yes
PUD-C	Yes	No	Yes
PUD-I	Yes	No	Yes
PUD-MU	No	Yes	Yes

(Prior Code, § 23-197)

Sec. 117-214. Permitted uses.

Principal permitted use and, subject to appropriate criteria, conditional uses and accessory uses of the underlying zone district are allowed within a PUD. Restrictions, controls, and incentives of the applicable PUD development proposal shall be included within the PUD application prior to recordation.

- (1) PUD-R, Planned Unit Development Residential District:
 - a. Intent. The intent of the PUD-R district is to support private residential development by providing incentives encouraging the use of innovative design techniques in order to achieve high-quality residential development.
 - b. Size. There is no minimum lot size for the PUD-R district; however, it must be large enough to enable its development as a complete identifiable unit and through the flexibility allowed by the PUD process provide a bona-fide benefit to the residents and users of the PUD. Recommended minimum lot size for a detached single-family residential lot is 6,600 square feet with the provision that 20 percent of the total site is developed as common open space area.
 - c. Permitted uses. For the PUD-R, the following uses shall be permitted, subject to meeting the adopted review criteria:
 1. All uses in the R-1, R-4, and R-3 zone districts shall be allowed as provided in the table of approved uses section 117-99.
 2. Consumer goods and convenience services including neighborhood commercial activities, providing such uses are subordinate to the permitted uses; are designed to serve primarily the residents of the development; and are harmoniously incorporated into the total design of the PUD. Such uses shall be identified at the time of preliminary approval.
- (2) PUD-C Planned Unit Development Commercial:
 - a. Intent. The intent of the PUD-C district is to promote the architectural grouping of commercial and professional consumer oriented activities creating a harmonious relationship between people, structures and motor vehicles through the use of a well planned circulation, parking, pedestrian ways, courtyards, and landscaped open space areas.
 - b. Size. There is no minimum lot size for the PUD-C district, provided the proposed development is functional.
 - c. Permitted uses. For the PUD-C, the following uses shall be permitted, subject to meeting the adopted review criteria: all nonresidential uses in the CC (Center City Commercial), NC (Neighborhood Commercial), GC (General Commercial), HC (Highway Commercial) and O (Transitional Office) zone districts as provided in the table of approved uses, section 117-99.

(3) PUD-I Planned Unit Development Industrial:

- a. Intent. The intent of the PUD-I district is to promote the architectural grouping of industrial wholesale, warehouse, light and heavy manufacturing activities creating a harmonious relationship between people, structures, operations and motor vehicles through the use of a well planned circulation, parking, pedestrian ways, outside storage, and landscaped open space areas.
- b. Size. There is no minimum lot size for the PUD-I district, provided the proposed development is functional.
- c. Permitted uses. For the PUD-I, the following uses shall be permitted, subject to meeting the adopted review criteria: all permitted uses in the M-1 (light manufacturing) and M-2 (heavy manufacturing) zone districts as provided in the table of approved uses section 117-99.

(4) PUD-MU Planned Unit Development Mixed Use:

- a. Intent. The intent of the PUD-MU district is to allow for the integration of residential, commercial, and industrial development within an area so as to ensure the formation of a self-sustaining project. Light industrial uses, including those permitted in the M-1 (light manufacturing) zone, are permitted, provided they complement the commercial uses and do not substantially impact the residential uses. The following provisions apply to the PUD-MU district:
 1. The developer shall establish that a special type of business and professional community will be created which benefits the citizens who occupy the residential component of the proposal.
 2. The city shall pay special attention to how the design of the PUD-MU district will affect the physical and social environment of the land and people who occupy the residential units.
 3. The number of residential units that may be built is flexible; however, the proposed number must achieve an acceptable balance for achieving self sustainability of the proposed development.
 4. Commercial and industrial development within a PUD-MU shall be located so as not to create undue traffic congestion or street hazards. Consideration shall be given to anticipated pedestrian, bicycle and vehicular impacts, adjacent development providing multiple use of off-street parking facilities, and the types of commercial uses implicated. The parking areas, services areas, buffers, entrances, exits, yards, courts, landscaping, graphics and lighting shall be designed as integrated portions of the total PUD-MU proposal.
- b. Size. There is no minimum lot size for the PUD-MU district, provided the proposed development is functional and facilitates self-sustainability.

- c. Uses permitted. Within a PUD-MU district the following uses shall be permitted subject to meeting all applicable criteria and regulations: any permitted, conditional or accessory use allowed in the R-1, R-4, R-3, CC, NC, GC, HC, O, M-1 zone district as allowed in section 117-91.
- d. Supplementary uses. Residential dwellings may be constructed above commercial uses provided:
 1. Separate access to dwelling units is provided;
 2. No commercial uses shall occupy the same floor as one occupied by a dwelling unit.

(Prior Code, § 23-198; Ord. No. 1591 6-2009)

Sec. 117-215. Review criteria.

- (a) Planned unit developments provide a more flexible approach to the physical development providing an opportunity for creative development planning and building design, to the end that the public health, safety and general welfare will be better served by tailoring development to the unique or special characteristics of the subject property and surrounding area. The city shall evaluate all planned unit development plans pursuant to the following criteria, which may be applicable to the particular circumstances, balancing and evaluating the implementation of such criteria to maximize, to the greatest practical extent, the community interest and welfare.
- (b) Comprehensive plan and code requirements:
 - (1) Is the proposed development in accordance with all elements of the city plan including, but not limited to, land use plan, planning sub-area land use recommendations and traffic circulation?
 - (2) Have all provisions of the land development code and general conditions, technical specifications and stormwater management plan been met? If not, have the exceptions/variances requested been thoroughly evaluated and made a part of the PUD design?
 - (3) For a PUD that includes an exception to the height standards, have the following been satisfied?
 - a. Proposed structure's affect upon adjacent properties is minimal with respect to a compatibility of use and design, alternative energy access, visual access, and rights of privacy, light and air.
 - b. Public services can be provided to the structure at a level currently enjoyed by the surrounding area, or at adequate levels per existing city policies and regulations.
 - c. Project complies with all adopted fire department regulations and standards.
- (c) Public facilities. Is there present and available adequate capacity to serve the proposed development, at appropriate service levels, in conformance with city policy and regulations with water, sewer, electricity, storm drainage, streets, etc. without negatively impacting the

service levels of the surrounding neighborhoods, or have arrangements been made for extension and/or augmentation to adequately serve the proposed development and mitigate negative impacts on surrounding neighborhoods?

(d) Neighborhood compatibility.

- (1) Are the scale, building bulk and orientation, setbacks, landscaping and visual integrity of the proposed development appropriate for the development, sensitive to the immediate area, compatible with the character of the neighborhood and do they promote the stabilization of the surrounding neighborhood?
- (2) Does the design and layout of the proposed development facilitate the development of adjacent property rather than limit design options for adjacent landowners?

(e) Natural resource protection.

- (1) Does the proposed development preserve significant existing vegetation (i.e., large trees and unique features of the site)?
- (2) If the project contains known areas of natural or geologic hazard, including unstable slopes, floodways, high groundwater tables, sink holes or soil conditions unfavorable to urban development, will special engineering precautions be taken to address satisfactorily those limitations or have these areas been appropriately set aside and restricted from development?

(f) Land uses. Is the land use mix appropriate and do they meet the restrictions of section 117-214?

(g) Development assurances:

- (1) The city council may require adequate assurance, in a form and manner that it approves, that the common open space, amenities and public improvements shown in the final development plan will be provided and fully developed.
- (2) The city may accept an irrevocable letter, cash escrow or other acceptable financial guarantee, in an amount sufficient to ensure installation and completion of the public improvements and amenities associated with the final development plan.

(h) Design standards. The following design standards shall be used during the review process as guidelines for evaluating the PUD. If any specific standard causes extraordinary hardship or if the applicant demonstrates that the intent of the standard will be better accomplished by other appropriate means, such alternatives may be considered through the review process:

- (1) Density increases will be allowed with the formation of a PUD district. Density increases shall not exceed 50 percent of the permitted maximum density of the underlying zone district, if the PUD is used as an overlay, or land use designation of the city plan is zoned PUD-R. The calculation of density increase shall be based on the sum of those amenities or public improvements included within the development proposal. The types of amenities or public improvements as outlined in the following

schedule are illustrative of the kinds eligible for density bonus consideration. The city encourages new creative ideas for density bonus consideration. For those amenities not contained on the following list, percentage bonuses shall be determined on a case-by-case basis and weighed according to their similarity to the prescribed schedule and its contribution (bona-fide benefit) to the development proposal.

<i>Maximum Density Increase</i>	<i>Amenity or Public Improvement in Excess of What is Typically Required</i>
5 percent	Ten percent additional landscaping
3 percent	Additional streetscape (landscaping/furniture)
3 percent	Rear (alley) access
3 percent	Sidewalk/trail to parks and public use areas
1 percent	Additional off-street parking
3 percent	Landscaping/berm instead of fencing
1 percent	Joint use parking in PUD-MU
3 percent	Removing unsafe structures
5 percent	Rehabilitation substandard structures
3 percent	Constructing pedestrian over-/under-pass
5 percent	Substructure parking
5 percent	Creation of new jobs
3 percent	Dedication of City park land
3 percent	Dedicating land for public easement/right-of-way
5 percent	Five percent additional improved open space
3 percent	Five percent additional unimproved open space
1 percent	If dwelling is within 1,500 feet of a school
1 percent	Additional fire protection techniques

- (2) Parcel size. There shall be no minimum parcel size for a PUD; however, it must be large enough to enable its development as a complete identifiable unit and, through flexibility allowed by the PUD process, provide bona fide benefits to the residential users of the PUD. Recommended minimum lot size for a detached single-family residential PUD is 6,600 square feet when less than 20 percent open space is provided.
- (3) Open space. The minimum required open space in residential PUDs shall be 20 percent of the total site. The required open space shall be land areas not occupied by buildings, structures, parking areas, driveways, streets or alleys. Said open space shall be devoted to landscaping, walkways, recreational areas and uncovered facilities and preservation of natural features. If there exists common open space in residential PUDs a minimum of 75 percent shall be contiguous lands generally free from obstructions that affect the intended functionality of the open space. Common open spaces shall be distributed equitably throughout the project in relation to the dwelling units of the residents to be served and shall be reasonably accessible to all of the PUD residents.

- (4) Natural amenities. The required open space may be left in its natural state if the city determines that the natural landscape should be preserved. Areas devoted to natural flood-control channels or drainage easements may be applied toward satisfying this portion of the total open space requirement.
- (5) Clustering. Clustering of dwelling units, commercial and industrial uses is encouraged as long as buffer yards, open space and emergency access are adequately planned. Buffer yards shall be required to separate different uses in order to eliminate or minimize potential interference and nuisances on adjacent properties. The size of the buffer yard shall be determined through the review process, based on its ability to achieve appropriate separation.
- (6) Landscaping. A landscape plan, prepared pursuant to the city's adopted landscape regulations, shall be required for all open space in a PUD, with the exception of those areas which the city determines would be most beneficial to the project and the community if left in their natural or existing condition due to those areas' natural beauty or uniqueness. Existing trees, 18 inches in diameter or larger, shall be preserved wherever practical.
- (7) Traffic circulation.
 - a. Primary vehicular access points to the PUD shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian and bicycle traffic.
 - b. Where appropriate, the internal circulation system shall provide pedestrian and bicycle paths that are physically separated from vehicular traffic to serve residential, nonresidential and recreational facilities provided in or adjacent to the PUD.
 - c. Where designated bicycle paths exist adjacent to the PUD, safe, convenient access shall be provided. The city may require, when necessary to achieve public safety, pedestrian or bicycle overpasses, underpasses or traffic signalization in the vicinity of parks, schools, shopping areas or other uses that may generate considerable pedestrian or bicycle traffic.
- (8) Streets. The design of public streets within a PUD shall reflect the nature and function of the street. Existing city standards of design and construction may be modified only as is deemed appropriate by the city after recommendation by the street's superintendent, planning director, fire chief and police chief and based on unique circumstances.
- (9) Parking standards.
 - a. Parking shall generally be provided as per the off-street parking requirements found in article V of chapter 111.
 - b. The city may decrease or increase the number of required parking spaces based upon such factors as:
 1. The probable number of cars owned or required by the occupants anticipated;

2. The parking demand resulting from any nonresidential uses;
 3. Varying time periods of use; and
 4. The general location of the project.
- c. All off-street parking areas, covered or open, in any PUD shall be screened by landscaping or otherwise from view from any public rights-of-way, except in single-family projects.
 - d. Commercial or industrial projects may reduce the number of parking spaces on site if perpetual joint use parking is provided off-site within 300 feet of the proposed use.
- (10) Building spacing. No specific yard, setback, lot size, or building height requirements shall be imposed (except those required by adopted uniform codes, contemplating matters such as building separation) in any planned unit development district, provided that the spirit and intent of this section are complied with in the final development plan. The city may determine that certain setbacks and building heights be required within all or a portion of a PUD and in all cases the height specified in the base-zoning district should be used as a guide for building with the PUD.
- (11) Noise attenuation. Noise attenuation shall be enforced and regulated as provided per the manufacturing/processing performance standards found in division 2 of this article.

(Prior Code, § 23-199)

Sec. 117-216. Application procedures.

- (a) The owner of or any person having a contractual interest in, the property may file a planned unit development application.
- (b) Procedure. Application for a PUD district designation shall be pursuant to this article.
- (c) Sketch plan. Prior to filling a preliminary development plan, the applicant shall prepare a sketch plan of the proposed planned unit development for review by the city planner, and such other city department heads or referral agencies as may be required. Upon completion of the sketch plan review, the city planner shall provide the applicant written comments with respect to the proposal and shall also provide recommendations to assist the applicant in preparing a formal application for submittal.
- (d) Purpose. The sketch plan is intended to provide the applicant with an opportunity to submit a plan showing the basic concept, character and nature of the entire proposed planned development without becoming too highly involved in the preparation of detailed development plans. The sketch plan should include the following information:
 - (1) Categories of uses to be permitted.
 - (2) Overall maximum density of residential uses and intensity of nonresidential uses.
 - (3) General location of vehicular and pedestrian circulation systems.

(4) General location and extent of public and private open space.

(5) General location of residential and nonresidential land uses.

(6) Phasing of development

(Prior Code, § 23-200; Ord. No. 1365, 8-2005)

Sec. 117-217. Submittal requirements.

Application. In conjunction with a preliminary plat application, the applicant shall submit the following:

- (1) Completed application form including preapplication (sketch plan) check-off list.
- (2) Written statement detailing how applicable criteria have been addressed.
- (3) 25 copies of the plans including all applicable information specified in the following section.
- (4) Quantitative data for dwelling units, lot coverage, densities, open space and land uses.
- (5) Sheet size 24 inches by 36 inches.
- (6) North arrow, date and engineer's scale as appropriate.
- (7) Vicinity map at 1½ mile radius.
- (8) Legal description of the subject property.
- (9) Total acreage.
- (10) Requested zoning district graphically shown with respective acreage, plus legal description for each zoning district.
- (11) Existing zoning in and adjacent to subject property.
- (12) Names and boundaries of adjacent subdivisions and streets.
- (13) Proposed lots with approximate dimensions and square footage.
- (14) Building envelope numbers if applicable.
- (15) Street layout.
- (16) Existing ROW in and adjacent to subject property.
- (17) Existing easements in and adjacent to subject property.
- (18) Proposed easements and their type in and adjacent to subject property.
- (19) Existing utility lines and sizes (including fire hydrants) in and adjacent to subject property.
- (20) Proposed major utility lines.
- (21) Proposed utility lines and sizes in and adjacent to subject property.
- (22) Existing and proposed curb cuts.
- (23) Traffic control plan where applicable.

- (24) All waterways and ditches in and adjacent to subject property.
 - (25) Statement of how drainage will generally be handled.
 - (26) Major street pattern indicating connections to existing streets.
 - (27) Location and size of different land use areas specifying type and density/intensity of land use for each area.
 - (28) Identification of areas where special buffering techniques will be utilized (perimeter and internal).
 - (29) Existing type and location of structures and paved areas on the site.
 - (30) Proposed type and location of structures and paved areas on the site.
 - (31) Type and number of residential units.
 - (32) Dimensioned parking area layout with parking spaces, drives, and backup areas dimensioned.
 - (33) Exterior lighting location and specifications.
 - (34) Trash-disposal area locations, specifications and screening.
 - (35) Maximum height of all structures.
 - (36) All areas to be dedicated for public use (parks, ROW, utility easements).
 - (37) Approximate location of existing large trees 18 inches in diameter or larger.
 - (38) Preliminary landscaping plan.
 - (39) Land use table indicating percentage of land devoted to buildings, parking/drives, street rights-of-way, private open space, common open space, and public open space.
 - (40) Phasing plan.
 - (41) Landscaping plan.
 - (42) Other circulation system elements such as pedestrian, greenways, and bicycle paths.
 - (43) Proposed retention/detention (stormwater management plan).
- (Prior Code, § 23-201)

Secs. 117-218—117-242. Reserved.

DIVISION 2. PERMITS AND FINAL APPROVAL

Sec. 117-243. Preliminary and final development plans for PUDs.

- (a) The application for a PUD shall be subject to the following sequential three-step review process:
 - (1) A preapplication conference;
 - (2) A preliminary development plan submittal; and

(3) A final development plan.

(b) The preliminary and final development plans may be processed concurrently only if the planning director determines that the scale and scope of the project accommodates concurrent review.

(Prior Code, § 23-202)

Sec. 117-244. Preapplication conference.

(a) A preapplication conference with the planning director or designee is required prior to application submittal. This conference shall take place when the applicant has defined concepts for the development proposal. The applicant shall be responsible for scheduling such conference. If deemed appropriate, the planning director or designee shall invite other city departments or professional consultant agencies to participate in this preapplication conference meeting.

(b) The purpose of this conference is to:

- (1) Review and discuss the project concept, and to facilitate exchange of information between applicant and the city staff;
- (2) Refer the applicant to other departments or agencies to discuss significant issues prior to application submittal;
- (3) Determine required applications to be filed and provide applicant with application materials, information on submittal requirements, deadlines and projected time frame for review;
- (4) Obtain waiver of any applicant submittal requirements from the planning director.

(c) Within two weeks of the date of the preapplication conference, the planning director or designee shall furnish the applicant with written comments regarding the conference to indicate whether or not the proposed PUD concepts appear to be in general conformance with the city's goals and policies, and to assist the applicant prior to preparation of the preliminary development plan application package.

(Prior Code, § 23-203)

Sec. 117-245. Preliminary development plan.

The preliminary development plan application is intended to generate site plan information in the form of written statements and concept design plans in order to provide adequate information for review by city officials and consideration by the general public. The completed application shall be known as the preliminary development plan.

- (1) Application submittal. The applicant shall submit application materials, as outlined in section 117-217, to the planning department 30 days prior to the next regularly scheduled planning and zoning commission meeting. The application shall not be deemed accepted by the city until it is checked and found to be complete. Incomplete applications shall not be scheduled for planning and zoning commission review.

- (2) City staff review and resolution period. City staff shall act upon the proposal generally within 30 days of referral, preparing written comments for submission to the applicant. During this period, the applicant is encouraged to work with the various city departments and professional agencies to resolve concerns, revise plans to reflect resolution, and to assemble the appropriate documentation for unresolved issues.
- (3) Submittal of final revisions. The final revisions package, representing the applicant's final proposal for review by the planning and zoning commission (P/Z) and city council shall be submitted to the planning department a minimum of ten days prior to the regular P/Z meeting. Through the final revisions, issues shall be addressed by proposed solutions. Plans must be in final form and unresolved issues shall be ready for discussion. Written responses stating only that there has not been enough time to adequately address the issue shall mean that the item is not ready for P/Z evaluation and the item shall not be scheduled on the P/Z agenda.
- (4) The final revision package shall include 12 full-size copies of all documents and one reduced to 11 inches by 17 inches.

(Prior Code, § 23-204)

Sec. 117-246. Planning and zoning commission scheduling.

When all materials have been received and found complete prior to the deadline, the item shall be scheduled on the next regular P/Z meeting agenda. At that time, the applicant shall send notification to surrounding property owners and residents within 185 feet of subject property, the planning department shall cause legal notice to be published no later than seven days prior to the public hearing and post the property.

- (1) Staff recommendation. Staff shall then prepare written recommendations based on the applicant's final revisions package and the proposal's conformance to the applicable review criteria as outlined in section 117-215. The recommendation shall be forwarded to the planning and zoning commission, and a copy sent to the applicant.
- (2) Planning and zoning commission action. The P/Z commission shall hold a public hearing on the request. The commission shall evaluate the proposal based on technical accuracy of the materials, compliance with city regulations, policies and applicable review criteria. The commission shall make findings regarding the proposal's compliance with the applicable review criteria, and shall by resolution forward a recommendation of approval, approval with conditions, or denial to city council. The commission may also postpone the request if it finds that the proposal is not in an appropriate form for action.
- (3) City council action. Following P/Z action, the city council, at their next regularly scheduled meeting, shall hold a public hearing on the request. The council shall evaluate the proposal based on technical accuracy of the materials, compliance with city regulations, policies and applicable review criteria. The council shall make findings regarding the proposal's compliance with the applicable review criteria, and

shall by resolution approve, approve with conditions, or deny the request. The council may also postpone the request if it finds that the proposal is not in an appropriate form for action.

- (4) Minor changes in the preliminary development plan. Minor changes in the approved preliminary development plan and its conditions of approval shall be subject to review, consideration and approval by the planning director. When the minor changes in the preliminary development plan involve a reduction or an addition of more than ten percent to the land area, density or open space areas, then the preliminary development plan shall be reviewed by the city council following the same process as outlined above.

(Prior Code, § 23-205)

Sec. 117-247. Filing of the final development plan application.

Within a maximum of 12 months following the approval of the preliminary development plan, the applicant shall file with the planning director a final development plan for all or part of the planned unit development. At its discretion, and for good cause, the city council may extend for up to 12 months the period for filing the final development plan application. If the applicant fails to apply for final development plan approval for all or part of the planned unit development within one year, the approval of the preliminary development plan shall be revoked.

- (1) *Final development plan.* The final development plan application is intended for the review of additional items required by the city resulting from review of the preliminary development plan. If there were no additional items required by the P/Z commission or city council and all other items associated with the preliminary development plan have been addressed, the applicant shall be eligible for administrative approval of the final development plan. The completed application shall be known as the final development plan.
- (2) *Application requirements.* The final development plan shall include all of the information required for the preliminary development plan in its finalized, detailed form, including:
- a. Any new items not submitted with the preliminary development plan;
 - b. Any information demonstrating compliance with the conditions of approval of preliminary development plan;
 - c. Any required preliminary/final subdivision plats;
 - d. Any required dedication documentation and/or agreements associated with the installation of public improvements;
 - e. Any additional, relevant and reasonable information as may be required by the planning director, planning and zoning commission, or city council to evaluate the character and impact of the proposed PUD.

- (3) *Final development plan approval procedures; preapplication conference.* A preapplication conference with a member of the planning staff is required prior to application submittal. The purpose of the conference is to:
 - a. Review conditions of preliminary development plan approval;
 - b. Discuss submittal materials; and
 - c. Discuss submittal dates and projected time frames for review.
- (4) *Application submittal.* The applicant shall submit all application materials, as outlined above, in one package to the planning director or designee. The city shall not accept the application package until it is checked and found to be complete. Incomplete application packages shall not be scheduled for staff review and shall be returned to the applicant. Once accepted, the materials will be referred to the appropriate city departments and private consulting agencies for review.
- (5) *Review and resolution period.*
 - a. Staff shall act upon the proposal, generally within 30 days of referral, preparing written comments for submittal to the applicant. During this period, the applicant is encouraged to work with the various departments to resolve concerns, revise plans to reflect resolution and to assemble the appropriate documentation for unresolved issues.
 - b. After such review, the planning director shall determine if staff may approve the request or if it must be forwarded for public hearing and action to the city council. Staff is not required to approve any application.
 - c. An application which meets the following three guidelines shall be considered for final approval by staff; otherwise, the application shall be forwarded to the city council. Applications forwarded to the city council shall follow the procedures outlined in this section.
 1. The final development plan is in substantial compliance with the preliminary development plan and shall not include the following:
 - (i) Violation of any provision of this subpart;
 - (ii) Varying the lot area standard of the preliminary development plan by more than ten percent;
 - (iii) A reduction of more than ten percent of the area reserved for the common open space;
 - (iv) An increase of the floor area proposed for nonresidential use by more than ten percent
 - (v) Increasing the amount of total ground covered by buildings by more than ten percent
 - (vi) Changes in density of more than ten percent
 2. All conditions of the preliminary development plan approval have been fully satisfied.

3. All concerns of city staff and professional agencies have been fully satisfied.

(Prior Code, § 23-206)

Sec. 117-248. Satisfaction of conditions.

City action on the proposal shall not become final unless the applicant has satisfied all conditions of approval within 12 months. Upon satisfaction and certification by the planning director, a record of the city's action shall be recorded with the county clerk and recorder's office in addition to a Mylar set of the final development plan.

- (1) *Minor changes to the final development plan.* Minor changes to the final development plan shall follow the procedures outlined for a final development plan. No minor change shall include any of the following:

- a. A change in the use or character of the development;
- b. An increase in overall coverage of structure;
- c. An increase in the intensity of the use;
- d. An increase in the problems of traffic circulation and public utilities;
- e. A reduction in approved open space;
- f. A reduction of off-street parking or loading space;
- g. A reduction in required pavement widths.

All changes in use, or rearrangement of lots, blocks and building tracts, or any changes in the provision of common open spaces, must be reviewed in accordance with the final development plan procedure, as outlined in this division.

- (2) *Failure to begin development.* If the final platting for at least first phase of development has not been approved by the city within 24 months from the final development plan approval date, such plan shall lapse and become null and void unless the application begins the review procedures to amend the final development plan prior to its expiration. If amended after the two-year period, the final development plan shall fully conform to current ordinances and standards.

(Prior Code, § 23-207)

Secs. 117-249—117-274. Reserved.

ARTICLE VII. DENSITY AND DIMENSIONAL REGULATIONS*

Sec. 117-275. Applicability of article.

The requirements and conditions set forth in this article shall apply to the subdivision of land and the construction of buildings and structures. No subdivision, building, or structure shall be approved by the city except in compliance with this article.

(Ord. No. 2195, § 1, 5-24-2021)

Sec. 117-276. Buildings set back from street centerlines.

To ensure the full development of public transportation thoroughfares, buildings shall be set back from the centerline of all streets adjoining the lot in which the building is located as based on the classification of that street as indicated in the city council's adopted transportation plan as set forth in the table provided below.

<i>Local</i>	<i>Collector</i>	<i>Secondary Arterial</i>	<i>Primary Arterial</i>	<i>Expressway</i>	<i>Freeway</i>
25 feet	35 feet	40 feet	55 feet	90 feet	125 feet

(Ord. No. 2195, § 1, 5-24-2021)

Sec. 117-277. Minimum dimensional standards.

(a) The following minimum dimensional standards shall apply in each respective zoning district:

- (1) Lots zoned as AG district (agricultural) shall comply with the following dimensional requirements:
 - a. The minimum lot area shall be no less than 20,000 square feet,
 - b. The minimum lot width shall be no less than 100 feet,
 - c. No building shall be constructed or placed which exceeds 35 feet in height,
 - d. Buildings constructed or placed shall have a front yard setback of at least 25 feet,
 - e. Buildings constructed or placed shall have a rear yard setback of at least 25 feet,
 - f. Buildings constructed or placed shall have a side yard setback of at least seven feet as measured from the nearest point on the foundation wall to the property line,
 - g. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,

***Editor's note**—Ord. No. 2195, § 1, adopted May 24, 2021, repealed the former Art. VII, §§ 117-275—117-281, and enacted a new Art. VII as set out herein. The former Art. VII pertained to similar subject matter and derived from Prior Code, §§ 23-216, 23-217, 23-218, 23-219, 23-220, 23-221, 23-223; Ord. No. 1591, adopted June 2009.

- h. The maximum allowed number of dwelling units shall not exceed 2.18 dwelling units per acre.
- (2) Lots zoned as R-1 district (single-family residential) shall comply with the following dimensional requirements:
- a. The minimum lot area shall be no less than 6,600 square feet,
 - b. The minimum lot width shall be no less than 60 feet,
 - c. No building shall be constructed or placed which exceeds 35 feet in height,
 - d. Buildings constructed or placed shall have a front yard setback of at least 25 feet,
 - e. Buildings constructed or placed shall have a rear yard setback of at least 20 feet,
 - f. Buildings constructed or placed shall have a side yard setback of at least seven feet as measured from the nearest point on the foundation wall to the property line. However, buildings constructed or placed on a lot which was approved on a valid preliminary plat existing on or before May 24, 2021, may have a side yard setback of at least five feet provided that said building fully complies with the city's adopted building code,
 - g. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,
 - h. The maximum allowed number of dwelling units shall not exceed 6.60 dwelling units per acre.
- (3) Lots zoned as R-4 district (two-family) shall comply with the following dimensional requirements:
- a. The minimum lot area shall be no less than 8,000 square feet for two-family residential dwellings ("duplexes") and no less than 4,000 square feet for attached single-family residential dwellings ("townhomes" or "zero lot line"),
 - b. The minimum lot width shall be no less than 60 feet,
 - c. No building shall be constructed or placed which exceeds 35 feet in height,
 - d. Buildings constructed or placed shall have a front yard setback of at least 20 feet,
 - e. Buildings constructed or placed shall have a rear yard setback of at least 15 feet,
 - f. Buildings constructed or placed shall have a side yard setback of at least seven feet as measured from the nearest point on the foundation wall to the property line. However, buildings constructed or placed on a lot which was approved on a valid preliminary plat existing on or before May 24, 2021, may have a side yard setback of at least five feet provided that said building fully complies with the city's adopted building code,

- g. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,
 - h. The maximum allowed number of dwelling units shall not exceed 5.45 dwelling units per acre.
- (4) Lots zoned as R-5 district (medium density multifamily) shall comply with the following dimensional requirements:
- a. No building shall be constructed or placed which exceeds 35 feet in height,
 - b. Buildings constructed or placed shall have a front yard setback of at least 20 feet,
 - c. Buildings constructed or placed shall have a rear yard setback of at least 12 feet,
 - d. Buildings constructed or placed shall have a side yard setback of at least eight feet as measured from the nearest point on the foundation wall to the property line,
 - e. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,
 - f. The maximum allowed number of dwelling units shall not exceed 8.71 dwelling units per acre.
- (5) Lots zoned as R-3 district (multifamily) shall comply with the following dimensional requirements:
- a. No building shall be constructed or placed which exceeds 35 feet in height,
 - b. Buildings constructed or placed shall have a front yard setback of at least 20 feet,
 - c. Buildings constructed or placed shall have a rear yard setback of at least 12 feet,
 - d. Buildings constructed or placed shall have a side yard setback of at least eight feet as measured from the nearest point on the foundation wall to the property line,
 - e. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,
 - f. The maximum allowed number of dwelling units shall not exceed 14.52 dwelling units per acre.
- (6) Lots zoned as R-MHS district (residential modular home) shall comply with the following dimensional requirements:
- a. The minimum lot area shall be no less than 6,000 square feet,
 - b. The minimum lot width shall be no less than 60 feet,
 - c. The minimum lot depth shall be no less than 100 feet,

- d. No building shall be constructed or placed which exceeds 35 feet in height,
 - e. Buildings constructed or placed shall have a front yard setback of at least six feet,
 - f. Buildings constructed or placed shall have a rear yard setback of at least six feet,
 - g. Buildings constructed or placed shall have a side yard setback of at least six feet,
 - h. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,
 - i. The maximum allowed number of dwelling units shall not exceed 7.26 dwelling units per acre.
- (7) Lots zoned as R-MHC district (residential manufactured home community) shall comply with the following dimensional requirements:
- a. The minimum lot area shall be no less than 4,000 square feet,
 - b. The minimum lot width shall be no less than 40 feet,
 - c. No building shall be constructed or placed which exceeds 35 feet in height,
 - d. Buildings constructed or placed shall have a front yard setback of at least six feet,
 - e. Buildings constructed or placed shall have a rear yard setback of at least six feet,
 - f. Buildings constructed or placed shall have a side yard setback of at least six feet,
 - g. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 12 feet from the property line adjacent to the street,
 - h. The maximum allowed number of dwelling units shall not exceed 10.89 dwelling units per acre.
- (8) Lots zoned as CC district (center city commercial) shall comply with the following dimensional requirements:
- a. Buildings constructed or placed shall have a front yard setback of at least 25 feet,
 - b. Buildings constructed or placed shall have a rear yard setback of at least 20 feet,
 - c. Buildings constructed or placed shall have a side yard setback of at least ten feet,
 - d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 15 feet from the property line adjacent to the street.

- (9) Lots zoned as O district (transitional office) shall comply with the following dimensional requirements:
 - a. Buildings constructed or placed shall have a front yard setback of at least 15 feet,
 - b. Buildings constructed or placed shall have a rear yard setback of at least 15 feet,
 - c. Buildings constructed or placed shall have a side yard setback of at least ten feet,
 - d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 15 feet from the property line adjacent to the street.
- (10) Lots zoned as NC district (neighborhood commercial) shall comply with the following dimensional requirements:
 - a. Buildings constructed or placed shall have a front yard setback of at least 15 feet,
 - b. Buildings constructed or placed shall have a rear yard setback of at least 15 feet,
 - c. Buildings constructed or placed shall have a side yard setback of at least ten feet,
 - d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 15 feet from the property line adjacent to the street.
- (11) Lots zoned as GC district (general commercial) shall comply with the following dimensional requirements:
 - a. Buildings constructed or placed shall have a front yard setback of at least 20 feet,
 - b. Buildings constructed or placed shall have a rear yard setback of at least 20 feet,
 - c. Buildings constructed or placed shall have a side yard setback of at least ten feet,
 - d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 15 feet from the property line adjacent to the street.
- (12) Lots zoned as HC district (highway commercial) shall comply with the following dimensional requirements:
 - a. Buildings constructed or placed shall have a front yard setback of at least 20 feet,
 - b. Buildings constructed or placed shall have a rear yard setback of at least 20 feet,
 - c. Buildings constructed or placed shall have a side yard setback of at least ten feet,

- d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 20 feet from the property line adjacent to the street.

(13) Lots zoned as M-1 district shall comply with the following dimensional requirements:

- a. Buildings constructed or placed shall have a front yard setback of at least 20 feet,
- b. Buildings constructed or placed shall have a rear yard setback of at least 20 feet,
- c. Buildings constructed or placed shall have a side yard setback of at least ten feet,
- d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least ten feet from the property line adjacent to the street.

(14) Lots zoned as M-2 district shall comply with the following dimensional requirements:

- a. Buildings constructed or placed shall have a front yard setback of at least 25 feet,
- b. Buildings constructed or placed shall have a rear yard setback of at least 25 feet,
- c. Buildings constructed or placed shall have a side yard setback of at least 25 feet,
- d. When the side yard of any building on a lot is adjacent to a street the building shall be setback at least 25 feet from the property line adjacent to the street.

(b) Residential side yards adjacent to a collector, arterial, expressway or freeway class thoroughfare shall be setback 20 feet.

(c) Bulk Regulations. No building or structure shall be placed in an M-1 or M-2 district such that the height of said building or structure is greater than the slope measured from a 45-degree angle from any property line adjoining a residential district.

(d) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.

(e) Structural features normally located on the roof of a building and not intended or used as places of occupancy or storage are exempt from the height limitations provided for in this section.

(Ord. No. 2212, § 1, 7-26-2021)

Sec. 117-278. Accessory structure setback requirements.

- (a) All accessory structures shall comply with the applicable setback requirements of this article except that rear yard setbacks shall only be a minimum of six feet unless a greater distance is required by section 117-278(b).
- (b) Where the high point of the roof or any appurtenance of an accessory building exceeds 12 feet in height, the accessory building shall be set back from any boundary line adjoining another residential lot by an additional two feet for every foot of height exceeding 12 feet.
- (c) The total area of all accessory buildings located on a single lot shall not cause the total area of building coverage on the lot to exceed 40 percent of the total lot area.
- (d) Unenclosed decks with no roof and structures which are flat surfaces shall not be subject to the accessory structure setback requirements established herein. For purposes of this section, structures which are considered flat surfaces include, without limitation, patios, walkways, sidewalks, foundations, driveways, and other similar structures.
- (e) Notwithstanding any other provision to the contrary, swimming pools shall be setback at least five feet from the principal building.

(Ord. No. 2195, § 1, 5-24-2021)

Sec. 117-279. Density on lots where portion dedicated to city.

- (a) Subject to other provisions of this section, if any portion of a tract lies within an area designated on an officially adopted city plan as part of a proposed public park, greenway, or bikeway, and before the tract is developed, the owner of the tract, with the concurrence of the city, dedicates to the city that portion of the tract so designated, then, when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.
- (b) If the proposed use of the remainder is a single-family detached residential subdivision, then the lots in such subdivision may be reduced in accordance with the provisions of article VI of this chapter except that as equivalent amount of land has previously been dedicated to the city in accordance with subsection (a) of this section.
- (c) If the proposed use of the remainder is a two-family or multifamily project, then the approved use density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
- (d) If the portion of the tract that remains after dedication as provided in subsection (a) of this section is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in subsections (b) and (c) of this section.

(Ord. No. 2195, § 1, 5-24-2021)

Secs. 117-280—117-310. Reserved.

Editor's note—Ord. No. 2195, § 1, adopted May 24, 2021 repealed § 117-280, which pertained to building height limitations and derived from Prior Code, § 23-221; Ord. No. 1591 adopted June 2009. Additionally, said ordinance repealed § 117-281, which pertained to density on lots where portion dedicated to city and derived from Prior Code, § 23-223.

ARTICLE VIII. SUPPLEMENTARY USE REGULATIONS**DIVISION 1. GENERALLY****Sec. 117-311. Short-term emergency, construction, or repair residences.**

- (a) Short-term residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.
- (b) Permits for short-term residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the city planner may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work not necessary to make such building habitable.

(Prior Code, § 23-172)

Sec. 117-312. Special events, seasonal, promotional and temporary uses.

(a) In deciding whether a permit for a special event, seasonal or temporary use should be denied for any reason specified in section 101-135(d), or in deciding what additional conditions to impose under section 101-135(d), or in deciding what additional conditions to impose under section 101-143, the city council shall ensure that, (if the special event, seasonal or temporary use is conducted at all):

- (1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.
- (2) The amount of noise generated shall not disrupt the activities of adjacent land uses.
- (3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the city.
- (4) The city council shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
- (5) Must have access to restroom facilities.

(b) In cases where it is deemed necessary, the city council may require the applicant to post a bond to ensure compliance with the conditions of the preliminary plat approval.

(c) If the permit applicant requests the city to provide extraordinary services or equipment or if the city administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay

to the city a fee sufficient to reimburse the city for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

(Prior Code, § 23-173)

Sec. 117-313. Temporary portable storage containers.

Notwithstanding any contrary provisions of this article, a temporary portable storage containers located outside of a fully enclosed building or structure is allowed within all of the city's residential, commercial and industrial zone districts subject to the following provisions:

- (1) Storage and or use of temporary portable storage containers within the city's commercial or industrial zone districts is a permitted use without limitation to the number of units or their duration; however, their placement and/or location on a commercial or industrial zoned property shall not occur within the front setback line of the principal structure.
- (2) A property owner may locate a temporary portable storage container on site within the residential zone districts of the city for a period of 30 days without obtaining a building permit, when the resident is moving from or to the city, or when making repairs to the residence that typically do not require a building permit, such as but not limited to replacing carpet, refinishing hardwood floors, painting, etc., or for making property damage restoration caused by flooding, fire or natural storm events. The city requests that the property owner notify the building inspection department when placing a temporary portable storage container on the property. Absent notification to the city, the property owner shall provide documentation of the temporary storage container's delivery date to the code official, which shall constitute the origination of the 30-day permitted time period.
- (3) A property owner wishing to place a temporary portable storage container on a residentially zoned lot when performing construction, remodeling or redevelopment of a permanent, on-site building that requires a building permit shall obtain a miscellaneous building permit from the city's building inspection department for the temporary portable storage. The building permit shall be prominently displayed either on the front exterior surfaces of the unit in a plastic liner or in the front window of the on-site principal structure.
- (4) When applying for a miscellaneous permit, the applicant shall submit a site drawing showing the location on the property where the temporary portable storage containers is to be located, the size of unit and the temporary portable storage container's distance from all applicable property lines and other buildings or structures;
- (5) The property must be occupied by a principal building. At no time shall a temporary portable storage containers be allowed on an undeveloped or vacant lot.
- (6) The maximum size of any temporary portable storage containers shall not exceed eight feet in width, eight feet in height and 16 feet in length.

- (7) No temporary portable storage containers shall be placed on the property in such a manner so as to encroach on property not owned by the permit applicant. It shall not be located on public right-of-way. It shall not cause visual obstruction to motor vehicle operations or to those individuals leaving the permit applicant's property entering public right-of-way.
- (8) Within residential zone districts, a temporary portable storage container shall be placed in a driveway or, if alley access exists, in the rear yard. Placement of a temporary portable storage container within the R-3 zone district shall be placed within an approved parking stall.
- (9) Only one temporary portable storage container is allowed on a lot at any given time for a period not to exceed 30 days. The city's chief building code official may permit more than one container and grant up to one extension of not more than an additional 30 days, provided the property owner has a valid permit for the temporary portable storage container and he can demonstrate that extenuating circumstances exist for the additional containers and extension.
- (10) No more than three permits may be issued within a 12-month period and a minimum of 20 days shall expire between the issuance of a permit for the same property.
- (11) A temporary portable storage container shall have no signage other than the name, address and telephone number of the person or firm engaged in the business of renting or otherwise placing the storage unit.
- (12) The owner, operator and/or renter of the temporary portable storage container shall be responsible to ensure that the storage unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. When not in active use, whether loaded or empty, the temporary portable storage container shall be kept locked. The owner, operator and/or renter of any on-site temporary portable storage container is strictly prohibited from storing any and all hazardous substances.

(Prior Code, § 23-174; Ord. No. 1573, 2-2009)

Secs. 117-314—117-344. Reserved.

DIVISION 2. MANUFACTURING/PROCESSING PERFORMANCE STANDARDS

Sec. 117-345. Smoke.

- (a) All new uses in the CC, NC, O, GC, and HC zoning districts must produce only a nominal amount of smoke that is emitted into the atmosphere.
- (b) For the purpose of determining "nominal," the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used.

- (c) All measurements shall be taken at the point of emission of the smoke.
(Prior Code, § 23-181)

Sec. 117-346. Noise.

(a) Except as provided in subsection (e) of this section, the table set forth in subsection (c) of this section establishes the maximum permissible noise levels for uses in the M-1 and M-2 districts. Measurements shall be taken at the boundary line of the lot where the use is located, and of the lot adjacent to the lot on which the manufacturing and industrial use as provided in section 117-99 is located.

(b) The standards established in the table set forth in subsection (c) of this section are expressed in terms of the equivalent sound level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at ten-second intervals.

(c) Noise standards.

(1) Maximum noise level. No operation or activity shall cause or create noise in excess of the sound levels prescribed below.

(2) Method of measurement. For the purpose of measuring the intensity and frequency of sound, the sound level meter shall be employed. The flat network and the fast meter response of the sound level meter shall be used.

(3) Exemptions:

- a. Noises not directly under the control of the property user;
- b. Noises emanating from temporary construction by the property user between 7:00 a.m. and 9:00 p.m.
- c. The noises of safety signals, warning devices, and emergency pressure relief valves;
- d. Transient noises of moving sources such as automobiles and trucks on public rights-of-way, airplanes, and railroad equipment on railroad rights-of-way.

(d) Sound pressure level standards.

(1) At residence district boundaries. At no point on or beyond the boundary of the nearest residence district shall the sound pressure level resulting from any use, operation, or activity exceed the following maximum permitted sound levels:

- a. In the M-1 district:

<i>Octave Band Preferred Center Frequencies</i>	<i>Maximum Permitted Sound Pressure Level in Decibels</i>	
31.5	76	72
63	71	67
125	65	61
250	57	53

<i>Octave Band Preferred Center Frequencies</i>	<i>Maximum Permitted Sound Pressure Level in Decibels</i>	
500	51	47
1,000	45	41
2,000	39	35
4,000	34	26
8,000	32	71

- b. In the M-2 district:

<i>Octave Band Preferred Center Frequencies</i>	<i>Maximum Permitted Sound Pressure Level in Decibels</i>	
31.5	79	75
63	74	70
125	68	64
250	60	56
500	54	50
1,000	48	44
2,000	43	39
4,000	38	34
8,000	36	32

- (2) Along adjacent lot boundaries. At no point on or beyond the lot lines of an operation shall the sound pressure level resulting from any use, operation, or activity exceed the maximum permitted sound levels set:

- a. In the M-1 district:

<i>Octave Band Preferred Center Frequencies</i>	<i>Maximum Permitted Sound Pressure Level in Decibels</i>	
<i>Cycles Per Second</i>	<i>7:00 AM—9:00 PM</i>	<i>9:00 PM—7:00 AM</i>
31.5	79	76
63	74	74
125	68	68
250	64	60
500	58	53
1,000	52	47
2,000	47	41
4,000	43	36
8,000	40	32

- b. In the M-2 district:

<i>Octave Band Preferred Center Frequencies</i>	<i>Maximum Permitted Sound Pressure Level in Decibels</i>	
31.5	86	82

<i>Octave Band Preferred Center Frequencies</i>	<i>Maximum Permitted Sound Pressure Level in Decibels</i>	
63	81	77
125	75	71
250	67	63
500	60	56
1,000	54	50
2,000	49	45
4,000	44	40
8,000	41	37

(e) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB(A) in excess of the figures listed in subsection (c) of this section, except that this higher level of permissible noise shall not apply from 7:00 p.m. to 7:00 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter

(f) Noise resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

(Prior Code, § 23-182)

Sec. 117-347. Vibration.

(a) All new uses in the CC, NC, O, GC, and HC zoning districts must produce only a nominal amount of ground-transmitted vibrations.

(b) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(c) Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

(Prior Code, § 23-183)

Sec. 117-348. Odors.

(a) All new uses in the CC, NC, O, GC, and HC zoning districts must produce only a nominal amount of odor.

(b) Odors are measured at two points:

(1) The outside boundary of the immediate space occupied by the enterprise generating the odor; and

(2) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

(Prior Code, § 23-184)

Sec. 117-349. Air pollution.

Any VI classification use that emits any "air contaminant" as defined in RSMo 643.02 shall comply with applicable state standards concerning air pollution, as set forth in RSMo ch. 643. (Prior Code, § 23-185)

Sec. 117-350. Disposal of liquid waste.

- (a) No IV classification use in any district may discharge any waste contrary to the provisions of RSMo 701.031.
 - (b) No IV classification use in any district may discharge into the city sewage treatment facilities any waste that can not be adequately treated by biological means.
- (Prior Code, § 23-186)

Sec. 117-351. Electrical disturbance or interference.

No person shall:

- (1) Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
- (2) Otherwise causes, creates, or contribute to the interference with electronic signals, including television and radio broadcasting transmissions, to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Prior Code, § 23-187)

Sec. 117-352. Exterior lighting standards.

- (a) The purpose of this section is to regulate the spillover of light and glare on operators of motor vehicles, pedestrians and land uses in the proximity of the light source. With respect to motor vehicles in particular, safety considerations form the basis of the regulations contained herein. In other cases, both the nuisance and hazard aspects of glare are regulated. This section is not intended to apply to public street lighting, signs or seasonal displays.
- (b) The following standards are required of all exterior lighting, subject to exemptions in subsection (c) of this section:
 - (1) The light source or luminaries for all exterior lighting shall have a cutoff so that the bare light bulb, lamp or light source is completely shielded from the direct view of an observer at ground level at a property line adjacent to a public right-of-way or property zoned residential or, if a buffer yard is required, at the interior buffer yard line.
 - (2) No flickering or flashing lights shall be permitted.
 - (3) Light sources or luminaries shall not be located within buffer yard areas except on pedestrian walkways.

(c) Exemptions.

- (1) Outdoor recreational uses. Because of their unique requirements for night time visibility and their limited hours of operation, ball diamonds, playing fields, and tennis courts shall be exempt from the exterior lighting standards of subsection (b) of this section. These outdoor recreational uses must meet all other requirements of this section and of this article.
- (2) Private outdoor lights. Private outdoor lights installed by a public utility on private property for security purposes are exempt from the exterior lighting standards of subsection (b) of this section, provided the installation is approved by all property owners of residential property from which the light source can be viewed directly.
- (3) In M-1 and M-2 districts. Due to unique lighting requirements for some industrial activities, exterior lighting, except for parking lot lighting, shall be exempt from the exterior lighting standards of subsection (b) of this section, provided that direct illumination from any light source does not cause illumination in excess of 0.5 lumens per square foot in any residential district.
- (4) Emergency warning lights. Safety signal and warning device lighting shall be exempt from the exterior lighting standards of subsection (b) of this section.

(Prior Code, § 23-188)

DIVISION 3. MOBILE RETAIL USES

Sec. 117-360. Purpose.

The purpose of this division is to preserve and promote the health, safety, and general welfare of the public by promoting compatibility among land uses within the community through regulations intended to minimize the potential harmful or nuisance effects resulting from noise, location, and other activities associated with mobile retail uses.

(Ord. No. 2350, § 2, 3-25-2024)

Sec. 117-361. Definitions.

Unless otherwise specifically provided herein or unless the context clearly indicates otherwise, the words and phrases defined in this section shall have the meaning indicated when used in this division.

Long-term mobile retail use means a mobile retail use which operates in a single location for longer than 12 hours with written permission from the property owner.

Mobile food truck means a motorized vehicle, which is validly licensed by the State of Missouri, or other state, that includes a self-contained kitchen or attached trailer kitchen in which food is prepared, processed, or stored, and such vehicle is used to sell or dispense food to the general public.

Mobile food truck park means a parcel of land for which the primary purpose is to allow for multiple mobile food trucks to operate in designated locations.

Mobile retail establishment means a motorized vehicle, which is validly licensed by the State of Missouri, or other state, that sells non-food items and services to the public, entirely within said vehicle.

Mobile retail use means the operation of a mobile food truck, mobile food truck park, or a mobile retail establishment.

Temporary mobile retail use means a mobile retail use which does not operate for longer than 12 hours in one fixed location.

(Ord. No. 2350, § 2, 3-25-2024)

Sec. 117-362. Mobile retail use permit required.

All mobile retail uses shall comply with the following requirements:

- (1) No mobile retail use shall operate within the boundaries of the City of Nixa without first obtaining a business license as required by chapter 12, article II of this Code.
- (2) No mobile retail use which includes the sale or provision of food or beverages shall operate within the boundaries of the City of Nixa without a current and valid permit from the local health department.
- (3) All city and county permits and inspections must be displayed at a prominent and publicly visible location for each mobile retail use.
- (4) No mobile retail use shall operate within the boundaries of the City of Nixa without first obtaining a use permit in conformance with the provisions of this division.

(Ord. No. 2350, § 2, 3-25-2024)

Sec. 117-363. Temporary mobile retail use requirements.

The operation of a temporary mobile retail use shall comply with the following use standards:

- (1) Temporary mobile retail uses are permitted uses only within the following zoning districts: HC (highway commercial), GC (general commercial), NC (neighborhood commercial), M1 (light industrial), M2 (heavy industrial), and designated common areas of residential zoning districts.
- (2) Temporary mobile retail use shall not be located on an individual lot for more than 12 hours during any 24-hour period. All vehicles, trailers, or other equipment which are part of the temporary mobile retail use shall not be left on the individual lot after this 12-hour period.
- (3) Temporary mobile retail uses shall only be permitted when the fee owner of the real property in which the use is to occur has provided written approval authorizing such use. Written approval must be displayed at the mobile retail use and made available upon request.

- (4) Any auxiliary power, such as electric generators, which are required for the operation of the temporary mobile retail use shall be self-contained. No use of public or private power sources shall be allowed without the prior written consent of the fee owner of the real property in which the use is to occur.
- (5) All materials generated from the temporary mobile retail use that are to be disposed of shall be disposed of properly. It shall be a violation of this division to discharge or dispose of any substance, material, food, or waste into the storm drain system.
- (6) Trash and recycling containers shall be provided for use by the temporary mobile retail use patrons. All trash or debris generated by the temporary mobile retail use or its patrons or any trash or debris accumulating within 20 feet of any temporary mobile retail use shall be collected by the temporary mobile retail use operator and deposited into an appropriate container.
- (7) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition to those signs physically attached to the vehicle. Said sign shall not be placed further than ten feet from the temporary mobile retail use.
- (8) No drive throughs of any kind shall be allowed in connection with temporary mobile retail use.
- (9) Parking shall only be allowed on an approved hard surface as provided in section 111-207(a) of this Code.
- (10) Mobile retail uses shall not be parked or otherwise located so that the vehicle nor the patrons block any driveways of existing buildings or uses, or in such a manner as to create a traffic hazard.
- (11) Temporary mobile retail uses shall not occupy any handicap accessible parking spaces.
- (12) Temporary mobile retail uses shall not operate on the public right-of-way or on public streets.

(Ord. No. 2350, § 2, 3-25-2024)

Sec. 117-364. Long-term mobile retail use standards.

The operation of a long-term mobile retail use shall comply with the following use standards:

- (1) Long-term mobile retail uses are permitted uses only within the following zoned districts: HC (highway commercial), GC (general commercial), and NC (neighborhood commercial).
- (2) Long-term mobile retail uses may stay in place longer than 12 hours provided that the property owner has given written permission to the long-term mobile retail use a copy of which shall be kept within the long-term mobile retail use and a copy of that permission is provided to the city.

- (3) Long-term mobile retail uses shall be located on an approved hard surface that is at least 100 feet from any entrance or exit of a lawfully established eating or retail place unless the owner of the eating or retail place provides a letter of consent, a copy of which shall be kept within the long-term mobile retail use and a copy of that permission shall be provided to the city.
- (4) Auxiliary power sources such as electric generators are prohibited for long-term mobile retail uses. Connection to public electric power is required.
- (5) All materials generated from the long-term mobile retail use that are to be disposed of shall be disposed of properly. It shall be a violation of this division to discharge or dispose of any substance, material, food, or waste into the storm drain system.
- (6) Trash and recycling containers shall be provided for use by the long-term mobile retail use patrons. All trash or debris generated by the long-term mobile retail use or its patrons or any trash or debris accumulating within 20 feet of any long-term mobile retail use shall be collected by the long-term mobile retail use operator and deposited into an appropriate container.
- (7) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition to those signs physically attached to the vehicle. Said sign shall not be placed further than ten feet from the long-term mobile retail use.
- (8) Drive throughs may be permitted for long-term mobile retail uses with an approved site plan by the director of planning and development. The site plan shall demonstrate that no motor vehicles will block pedestrian traffic on public sidewalks or vehicular traffic on public streets. The stacking area for vehicular traffic utilizing the drive through shall be designated on the site plan and shall be designed to accommodate safe and efficient on-site circulation and parking space access. The approved site plan shall govern the operation of the long-term mobile retail use in addition to the applicable provisions of this division and other applicable provisions of this Code.

(Ord. No. 2350, § 2, 3-25-2024)

Sec. 117-365. Exemptions.

- (a) Mobile retail uses operating at special events may operate without a use permit provided that the mobile retail use is located entirely within the boundaries of an approved special event permit issued by the city pursuant to applicable provisions of this Code.
- (b) Mobile food trucks shall be allowed to operate on public right-of-way under the following conditions:
 - (1) The operator does not stop on the public right-of-way for a period longer than one minute.
 - (2) The operator does not impede the flow of traffic.

- (3) The operator complies with all applicable provisions of this Code or state law relating to the operation of motor vehicles.

(Ord. No. 2350, § 2, 3-25-2024)

Sec. 117-366. Mobile food truck park use standards.

The operation of a mobile food truck park use shall comply with the following use standards:

- (1) Food truck parks are permitted uses only within the following zoning districts: HC (highway commercial), GC (general commercial), and NC (neighborhood commercial).
- (2) *Site plan review.* Prior to operation, food truck park operators are required to submit a site plan to the department of planning and development. The site plan shall include a detailed scaled drawing, photo, or rendering containing retail locations, utility connections, public parking locations, dumpster location, grease collection bin locations, and public restroom locations in sufficient detail to demonstrate compliance with this division and any other applicable provisions of this Code. The proposed site plan shall be approved by the director of planning and development upon demonstrated compliance with the provisions of this division and any other applicable provisions of this Code. The approved site plan shall govern the operation of the mobile food truck park.
- (3) *Use standards applicable to mobile food truck parks.*
 - a. Each mobile food truck park shall provide an approved hard surface for retail locations as defined in section 111-207(a) of this Code.
 - b. The food truck park shall provide electrical connections for each retail location as designated on the approved site plan.
 - c. The use of auxiliary power sources, such as electric power generators, shall be prohibited.
 - d. The food truck park shall provide water service connections for each retail location as designated on the approved site plan.
 - e. Public restrooms with municipal sewer connection within a permanent structure shall be required. Restroom structure must be in compliance with the Americans with Disabilities Act and all applicable provisions of this Code, including adopted building codes. Portable restrooms are prohibited. A minimum of two restrooms with separate entrances is required.
 - f. At minimum one two-yard commercial garbage receptacle shall be provided onsite and shall be accessible to all food trucks in compliance with section 111-8 of this Code.
 - g. A minimum of one 20-gallon garbage receptacle per every two food trucks shall be provided for patron use. If seating is provided an additional 20-gallon receptacle shall be provided for every ten seats.

- h. The food truck park shall provide a grease disposal bin with the location designated on the approved site plan.
 - i. A minimum of two parking spaces shall be provided per each mobile retail location.
 - j. One center identification sign as defined in chapter 113, article I, of this Code identifying the food truck park is permitted. No physical alterations or physical additions shall be made to the center identification sign without an additional approved sign permit. Each food truck is allowed one temporary sign in compliance with section 117-363(7) of this Code. Temporary signs authorized herein shall be stored when the food truck is not in operation.
- (4) *Outdoor seating.* If outdoor seating is provided the following standards shall apply:
- a. Outdoor seating areas shall be located no closer than ten feet from any property line.
 - b. Outdoor seating areas shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
 - c. Outdoor seating areas shall be designated on the approved site plan.
- (5) *Location of food trucks within food truck park.*
- a. Food trucks shall operate only from designated, approved locations within the food truck park and as designated on the approved site plan.
 - b. Food trucks within a food truck park shall not operate within ten feet from any property line.
 - c. A separation of a minimum of ten feet between food trucks must be maintained and kept clear of obstructions sufficient to provide emergency access to each food truck.

(Ord. No. 2350, § 2, 3-25-2024)

Appendix A

LIST OF DELETED SECTIONS FROM PRIOR CODE

APPENDIX A—DELETED SECTIONS FROM PRIOR CODE

The following sections of the Prior Code have been deleted for the reasons stated:

Sec. 2-1	Term of office of elective officers.	Covered by (and inconsistent with) Charter §§ 3.2, 9.1 & RSMo 115.121.
Sec. 2-2	Refusal, neglect of officers to perform duties.	Obsolete or not needed.
Sec. 2-3	Suspension, removal of elective officers.	Inconsistent with Charter §§ 3.6, 4.6 which sections effectively bar ordinances providing for removal of elected officials. Such sections authorize forfeiture of office.
Sec. 2-4	Suspension, removal of appointive officers.	Covered by Charter § 4.4.
Secs. 2-16—2-31	Mayor.	Superseded by Charter art. IV.
Sec. 2-17	Member of board of aldermen.	Superseded by Charter art. IV.
Sec. 2-18	Presiding officer of board of aldermen.	Superseded by Charter art. IV.
Sec. 2-19	Signer of documents.	Superseded by Charter art. IV.
Sec. 2-20	Reports of city business affairs.	Superseded by Charter art. IV.
Sec. 2-21	Enforcer of health regulations.	Superseded by Charter art. IV.
Sec. 2-22	Aid in enforcing laws.	Superseded by Charter art. IV.
Sec. 2-23	Granting reprieves and pardons.	Superseded by Charter art. IV.
Sec. 2-24	Vacancy in mayor's office.	Superseded by Charter art. IV.
Sec. 2-25	Approval of bills.	Superseded by Charter art. IV.
Sec. 2-26	Power to appoint officials.	Superseded by Charter art. IV.
Sec. 2-27	Power to administer oaths.	Superseded by Charter art. IV.
Sec. 2-28	Improvements of city affairs.	Superseded by Charter art. IV.
Sec. 2-29	Annual budget.	Superseded by Charter art. IV.
Sec. 2-30	Annual election proclamations.	Superseded by Charter art. IV.
Sec. 2-31	Issuance of warrants.	Superseded by Charter art. IV.
Sec. 2-32	Liability of city for court costs.	Beyond the power of the city to provide.
Sec. 2-55	Qualifications of aldermen.	Covered by Charter § 3.2.
Sec. 2-56	Date sworn into office.	Obsolete. See also Charter § 15.2.
Sec. 2-57	Council composition.	Covered by Charter § 3.2

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Sec. 2-58	Date of regular meetings; adjournment.	Charter § 3.11 provides that the city council shall meet regularly at least once each month at such times and places as the city council may prescribe. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that determination of a meeting date is not to be provided for by ordinance as it would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-59	Calling of meetings.	Covered by (and inconsistent with) Charter § 3.11.
Sec. 2-60	Attendance at meetings required; quorum.	Covered by Charter §§ 3.11, 4.6.
Sec. 2-61	Election of acting president.	Superseded by Charter § 3.4.
Sec. 2-62	Call to order.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-63	Roll call.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-64	Rules of order.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).

APPENDIX A—DELETED SECTIONS FROM PRIOR CODE

Sec. 2-65	Readings of minutes.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-66	Rules of debate.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-67	Addressing the board.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-68	Addressing the board after motion made.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-69	Manner of addressing board; time limit.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).

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Sec. 2-70	Decorum required.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-71	Enforcement of decorum.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-72	Persons authorized to be upon dais.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-73	Special committees.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-74	Standing committees.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).

APPENDIX A—DELETED SECTIONS FROM PRIOR CODE

Sec. 2-75	Protests by members against board action.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-76	Ordinances, resolutions, and contracts.	Deleted as covered by Charter § 3.11.
Sec. 2-77	Motions and rules of procedure.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-78	Reports and resolutions to be filed with clerk.	Under Charter § 3.11(b) the city council determines its rules and order of business. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that rules and order of business are not to be provided for by ordinance as they would be subject to veto, which would violate Charter § 3.11(b).
Sec. 2-91	Duties of city clerk.	Superseded by charter § 3.8.
Sec. 2-97	Clerk pro tempore.	Obsolete or not needed.
Sec. 2-98	Term and compensation of the city clerk.	Obsolete in light of Charter § 4.4
Sec. 2-116	Vacancy of office.	Obsolete in light of Charter § 4.4.
Sec. 2-131	Arrests of offenders.	Obsolete or covered by job descriptions.
Sec. 2-132	Appointment of deputies.	Obsolete or covered by job descriptions.
Sec. 2-133	Duties at board meetings.	Obsolete or covered by job descriptions.
Sec. 2-134	Bond of chief of police.	Covered by Charter § 13.6.
Sec. 2-135	General duties and powers.	Obsolete or covered by job descriptions.
Sec. 2-136	Aid in keeping peace.	Obsolete or covered by job descriptions.
Sec. 2-137	Badge of Office.	Obsolete or covered by job descriptions.
Sec. 2-138	Vacancy of office.	Inconsistent with Charter § 4.4.
Sec. 2-139	Removal from office.	Inconsistent with Charter § 4.4.
Sec. 2-156	Court established.	Covered by Charter § 6.1.
Sec. 2-157	Jurisdiction.	Covered by Charter § 6.1.

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Sec. 2-158	Selection of judge.	Covered by (and inconsistent with) Charter § 6.2 and RSMo 470.020.
Sec. 2-159	Term of office.	Covered by (and inconsistent with) Charter § 6.2 and RSMo 470.020.
Sec. 2-160	Vacation of office.	Covered by (and inconsistent with) Charter § 6.2 and RSMo 470.020.
Sec. 2-161	Qualifications for office.	Covered by (and inconsistent with) Charter § 6.2 and RSMo 470.020.
Sec. 2-162	Superintending authority.	Covered by (and inconsistent with) Charter § 6.1.
Sec. 2-163	Report to board of aldermen.	Covered by RSMo 479.080.
Sec. 2-164	Docket and court records.	Covered by RSMo 479.080.
Sec. 2-165	Municipal judge; powers and duties generally (subsection (3) excepted).	Adequately covered by RSMo 479.050, 479.070.
Sec. 2-166	Violations Bureau.	Obsolete or covered by RSMo 479.050.
Sec. 2-167	Issuance and execution of warrants.	Covered by RSMo 479.100.
Sec. 2-168	Arrests without warrants.	Covered by RSMo 479.110.
Sec. 2-169	Jury trials.	Covered by RSMo 479.130, 479.150.
Sec. 2-170	Duties of the city's prosecuting attorney.	Covered by (and not in conformity with) RSMo 479.120.
Sec. 2-171	Summoning of witnesses.	Covered by RSMo 479.160.
Sec. 2-172	Transfer of complaint to associate circuit judge.	Covered by RSMo 479.170.
Sec. 2-173	Jailing of defendants.	Covered by (and not consistent with) RSMo 479.180.
Sec. 2-174	Parole and probation.	Covered by RSMo 479.190.
Sec. 2-175	Working out fine.	Unconstitutional. See Tate v. Short, 401 U.S. 395, 91 S. Ct. 668, 28 L. Ed. 2d 130 (1971).
Sec. 2-176	Compensation for hard labor.	Inconsistent with RSMo 479.190.
Sec. 2-177	Suspension of sentence pending educational training course.	Obsolete—Not found in RSMo ch. 479.
Sec. 2-178	Right of appeal.	Covered by RSMo 479.200.
Sec. 2-179	Appeal from jury verdicts.	Covered by RSMo 479.200.
Sec. 2-180	Breach or recognizance.	Covered by RSMo 479.210.
Sec. 2-181	Disqualification of municipal judge from hearing particular case.	Covered by RSMo 479.230.

APPENDIX A—DELETED SECTIONS FROM PRIOR CODE

Sec. 2-182	Temporary municipal judge.	Covered by (and in conflict with) RSMo 479.230.
Sec. 2-183	Clerk of the municipal court.	Obsolete or not needed.
Sec. 2-185	Costs—Assess against prosecuting witness.	Obsolete—Not found in RSMo ch. 479.
Sec. 2-186	Installment payment of fine.	Covered by RSMo 470.240.
Sec. 2-201	Crossing guards appointment.	Obsolete.
Sec. 2-202	Qualifications.	Obsolete.
Sec. 2-203	Duties and powers.	Obsolete.
Sec. 2-204	Office of city administrator established.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-205	Appointment and tenure.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-206	Qualifications.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-207	Bond.	Covered by budget.
Sec. 2-208	Compensation.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-209	Removal of city administrator.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-210	Duties.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-211	Powers.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 2-212	Interference by members of the board of aldermen or mayor.	Covered by charter art. V and Charter §§ 3.5, 13.6.
Sec. 3-5	Exceptions to chapter; drug-gists and physicians.	Obsolete—No longer found in statute.
Sec. 3-13	Municipal judge to report conviction.	Obsolete or not needed.
Sec. 5-28	Compliance with article required.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-29	Yards, courts, driveways, vegetation.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-30	Infestation.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-31	Minimum ceiling height.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-32	Combined living-dining areas.	Superseded by the adoption of the 2006 International Property Maintenance Code.

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Sec. 5-33	Basement dwelling units.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-34	Foundations, exterior walls and roofs.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-35	Floors, interior walls and ceilings.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-36	Exterior openings.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-37	Stairways and porches.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-38	Basements and cellars.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-39	Facilities, equipment and chimneys.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-40	Accessory structures.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-41	Dual egress for dwelling units occupying third or higher story.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-42	Bathrooms.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-43	Kitchen sinks.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-44	Natural lighting.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-45	Illumination.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-46	Ventilation—Generally.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-47	Same—Kitchen with floor area of less than 70 square feet.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-48	Same—Bathrooms.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-49	Screens.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-50	Water and sewerage facilities.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-50A	Required Backwater Valve.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-51	Required water connections.	Superseded by the adoption of the 2006 International Property Maintenance Code.

APPENDIX A—DELETED SECTIONS FROM PRIOR CODE

Sec. 5-52	Water-heating facilities.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-53	Electrical service.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-54	Refuse, garbage and rubbish storage.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-56	Garages.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-57	Additions or alterations of existing dwellings.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-58	Mixed use prohibited in multiple dwelling units located in commercial/industrial districts.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-59	Buildings and structures to be numbered.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-60	Commercial buildings and structures to be numbered front and rear.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 5-61	Smoke detectors required.	Superseded by the adoption of the 2006 International Property Maintenance Code.
Sec. 6-1	Annual general election.	Superseded by Charter § 9.1.
Sec. 6-2	Officers to be elected.	Superseded by Charter §§ 3.2, 4.2, 6.2.
Sec. 6-3	Certificates of election.	Superseded by Charter § 9.2.
Sec. 6-4	Oath of office.	Superseded by Charter § 13.6.
Sec. 6-5	Vacancy of office.	Superseded by Charter §§ 3.4, 3.6, 6.3
Sec. 6-6	Acting President of the Board; Appointment of Officers.	
Sec. 6-7	Regular meeting of board.	Inconsistent with Charter § 3.11.
Sec. 6-8	Changing regular meeting of board.	Charter § 3.11 provides that the city council shall meet regularly at least once each month at such times and places as the city council may prescribe. As ordinances and resolutions are subject to veto by the mayor (see charter § 4.4(c)), it appears that determination of a meeting time is not to be provided for by ordinance as it would be subject to veto, which would violate Charter § 3.11(b).
Sec. 6-9	Qualifications of voters.	Not needed.
Sec. 6-10	Nomination of candidates.	Inconsistent with Charter § 9.2.

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Sec. 6-11	Determination of nomination.	Inconsistent with Charter § 9.2.
Sec. 6-12	Highest number of votes.	Superseded by Charter § 9.3.
Sec. 7-23	Severability provision.	Covered by chapter 1, as revised.
Sec. 9-8	Penalties.	Deleted so as to tie to chapter 1, as revised.
Sec. 9-11	Severability clause.	Covered by chapter 1, as revised.
Sec. 11-16-7	Savings clause.	Obsolete.
Sec. 11-29	Penalties.	Deleted so as to tie to chapter 1, as revised.
Sec. 11-51	Penalty.	Deleted so as to tie to chapter 1, as revised.
Sec. 12-2.20	Public inspection of reports relating to accidents.	Covered by RSMo 300.125.
Sec. 12-2.58	When permits required for parades and processions.	Superseded by Prior Code, ch. 11, art. IV.
Sec. 12-2.113	Police may remove vehicle.	Based upon repealed RSMo 300.595.
Sec. 12-2.114	Power of arrest of police officers.	Covered by RSMo 544.216.
Sec. 12-12.1	Recoupment of costs.	Covered by RSMo 488.5334.
Sec. 12-16	Designation of Nixa Park Drive as one-way.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-26	Fifteen miles per hour speed limit locations.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-27	Twenty miles per hour speed limit locations.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-28	Thirty miles per hour speed limit locations.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-29	Thirty five miles per hour speed limit locations.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-30	Forty miles per hour speed limit locations.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-31	Speed limit for Nixa city parks.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-32	Speed limits for Highway 14 and Highway 160.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-33	Forty five miles per hour speed limit locations.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-34A	Speed limits for school zones.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-35	Brakes.	Inconsistent with RSMo ch. 307.
Sec. 12-36	Lights.	Inconsistent with RSMo ch. 307.
Sec. 12-37	Signaling devices.	Inconsistent with RSMo ch. 307.
Sec. 12-38	Mufflers.	Inconsistent with RSMo ch. 307.

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Sec. 12-41	Body alteration and bumpers.	Inconsistent with RSMo ch. 307.
Sec. 12-45	Stop signs.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-49	No parking zones.	Obsolete in light of language added to the Code ratifying traffic signs, signals, etc.
Sec. 12-60	Duty of motorists to pedestrians generally.	Covered by Prior Code § 12-2-77.
Sec. 12-61	Right-of-way in crosswalks.	Covered by Prior Code § 12-2-70.
Sec. 14-4	Fine upon violation.	Deleted so as to tie penalty to Code chapter 1, as revised.
Sec. 14-15	Drinking intoxicating beverage in public.	Superseded by Prior Code § 3-12.
Sec. 14-16	Definition of intoxicating beverage.	Superseded by Prior Code § 3-12.
Sec. 14-35	Loitering.	Unconstitutional.
Sec. 14-47	Affrays (fighting in public).	Superseded by Prior Code § 3-12.
Sec. 14-70	Severability.	Covered by Code chapter 1, as revised.
Sec. 14-71	Penalties.	Deleted so as to tie penalty to Code chapter 1, as revised.
Sec. 18-11	Lead-ban-general policy.	Obsolete or covered by plumbing code or other standards
Sec. 19-1	Closing part of Market Street.	Not of a general and permanent nature.
Sec. 19-2	House numbers required.	Superseded by § 304.3 of the International Property Maintenance Code.
Sec. 21-1	Support and improvement of city by taxes.	Deleted as not needed.
Sec. 21-2	Other sources of revenue.	Deleted as not needed.
Sec. 21-3	Special taxes on improvements.	Deleted as not needed.
Sec. 21-4	Penalty for failure to pay taxes.	Deleted as not needed.
Sec. 22-10	Severability.	Covered by Code chapter 1, as revised.
Sec. 22-21	Further appeals.	Deleted. This section references RSMo 89.110. Such statute applies to appeals from a zoning board of adjustment (which is not the governing body—See RSMo 89.080) to the courts.
Sec. 23-474	Liberal construction, severability and penalty.	Covered by Code chapter 1, as revised.

CODE COMPARATIVE TABLE

PRIOR CODE

This table gives the location within the Code of those sections of the Prior Code, as supplemented through April 6, 2010, that are included herein.

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2-5	2-148	4-22	6-1
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Prior Code Section	Section in Code	Prior Code Section	Section in Code
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1090	6-1999		20-256
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1097	8-12-1999		1-10
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			107-41
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1170	10-2001		1-10
1179	3-2002		14-47—14-49
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1346	4-2005	12-1
1363	8-2005	109-1, 109-2 109-4—109-14
1365	8-2005	115-104—115-109 117-216
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1469	1-2007	103-1
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1475	2-2007	20-254
1488	7-2007	101-11
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1591	6-2009		6-39 117-99 117-214 117-275—117-278 117-280
1592	6-2009		20-226.1
1598	7-2009		115-39
1600	7-2009		16-393
1602	7-2009		101-75
1603	8-2009		2-3
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1683	3-14-2011		22-269—22-287 22-308—22-312
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1714	12-19-2011		6-37
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1736	4-16-2012		22-47
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***Note**—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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