

MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2024-0090, enacted October 22, 2024.

See the Code Comparative Table for further information.

Remove Old Pages

xi—xvii
Checklist of up-to-date pages
SH:3, SH:4
CD2:9, CD2:10
CD2:29, CD2:30
CD6:1, CD6:2
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CD86:7—CD86:18
CD86:61—CD86:64
CD90:25—CD90:28
CD94:1—CD94:3
CD94:11—CD94:30.5
CD94:97—CD94:102.2
CD94:110.1—CD94:124.1
CD94:145—CD94:150
CD94:163—CD94:166
CDA:7—CDA:12
CCT:63
SLT:1—SLT:7
CDi:1—CDi:90

Insert New Pages

xi—xvii
Checklist of up-to-date pages
(following Table of Contents)
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CD2:29, CD2:30
CD6:1—CD6:2.1
CD6:7, CD6:8
CD6:25—CD6:38
CD18:5—CD18:12
CD42:7—CD42:17
CD86:7—CD86:18.2
CD86:61—CD86:64
CD90:25—CD90:28
CD94:1—CD94:3
CD94:11—CD94:30.6
CD94:97—CD94:102.2
CD94:111—CD94:124.5
CD94:145—CD94:150
CD94:163—CD94:166
CDA:7—CDA:12
CCT:63, CCT:64
SLT:1—SLT:7
CDi:1—CDi:90

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INSTRUCTION SHEET—Cont'd.



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MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2024-0053, enacted June 11, 2024.

See the Code Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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vii—ix	v—vii
xiii—xix	xi—xvi
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
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CD2:13—CD2:16	CD2:13—CD2:16
CD2:29—CD2:35	CD2:29—CD2:37
CD22:1—CD22:4	CD22:1—CD22:4
CD22:7—CD22:22	CD22:7—CD22:22.6
CD22:31, CD22:32	CD22:31, CD22:32
CD54:3—CD54:10	CD54:3—CD54:11
CD86:1—CD86:6	CD86:1—CD86:6
CD86:17, CD86:18	CD86:17, CD86:18
CD86:53—CD86:65	CD86:53—CD86:65
CD90:25—CD90:28.1	CD90:25—CD90:28.2
CD94:1, CD94:2	CD94:1, CD94:2
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CD94:75, CD94:76	CD94:75, CD94:76
CD94:83, CD94:84	CD94:83, CD94:84
CD94:93—CD94:100	CD94:93—CD94:102.2
CD94:117, CD94:118	CD94:117, CD94:118
CDA:9—CDA:11	CDA:9—CDA:12
CCT:63	CCT:63
SLT:5—SLT:7	SLT:5—SLT:7
CDi:1—CDi:94	CDi:1—CDi:90

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Looseleaf Supplement

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

Ordinance No. 2023-0140, enacted December 12, 2023.

See the Code Comparative Table for further information.

Remove Old Pages

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xvii, xviii
Checklist of up-to-date pages
SH:3, SH:4
CD1:3—CD1:12
CD2:9—CD2:18
CD2:27—CD2:35
CD22:11, CD22:12
CD30:9—CD30:12
CD86:1, CD86:2
CD86:7—CD86:24.1
CD90:1, CD90:2
CD90:11, CD90:12
CD90:17—CD90:20.1
CD94:1, CD94:2
CD94:13, CD94:14
CD94:30.5
CD94:95—CD94:98.2
CD94:109, CD94:110
CD94:117—CD94:124
CDA:5—CDA:11
CCT:61, CCT:62
SLT:3—SLT:7
CDi:17—CDi:20.1
CDi:23, CDi:24
CDi:31, CDi:32
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Insert New Pages

xiii, xiv
xvii, xviii
Checklist of up-to-date pages
(following Table of Contents)
SH:3, SH:4
CD1:3—CD1:14
CD2:9—CD2:18.1
CD2:27—CD2:35
CD22:11, CD22:12
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CD86:1, CD86:2
CD86:7—CD86:24.1
CD90:1, CD90:2
CD90:11—CD90:12.1
CD90:17—CD90:20.1
CD94:1, CD94:2
CD94:13—CD94:14.1
CD94:30.5
CD94:95—CD94:98.2
CD94:109—CD94:110.1
CD94:117—CD94:124.1
CDA:5—CDA:11
CCT:61—CCT:63
SLT:3—SLT:7
CDi:17—CDi:20.1
CDi:23, CDi:24
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Insert New Pages

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

Ordinance No. 2023-0065, enacted June 27, 2023.

See the Code Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
xv—xviii	xv—xviii
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:3	SH:3, SH:4
CD1:7—CD1:12	CD1:7—CD1:12
CD2:31—CD2:34	CD2:31—CD2:35
CD22:5—CD22:12.1	CD22:5—CD22:12.2
CD42:5, CD42:6	CD42:5—CD42:6.1
CD42:15	CD42:15
CD58:1—CD58:3	CD58:1—CD58:3
CD58:13—CD58:22.1	CD58:13—CD58:22.4
CD82:11—CD82:17	CD82:11—CD82:18
CD86:19—CD86:24.1	CD86:19—CD86:24.1
CD90:19, CD90:20	CD90:19, CD90:20
CDA:3, CDA:4	CDA:3, CDA:4
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CCT:61, CCT:62	CCT:61, CCT:62
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SUPPLEMENT NO. 16
January 2023

MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2022-0129, enacted December 13, 2022.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages

SH:3
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CD2:5—CD2:12
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Insert New Pages

Checklist of up-to-date pages
(following Table of Contents)
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CD2:1, CD2:2
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CCT:61, CCT:62
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SUPPLEMENT NO. 15
August 2022

MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2022-0055, enacted July 12, 2022.

See the Code Comparative Table for further information.

Remove Old Pages

Checklist of up-to-date pages

SH:3
CD2:1, CD2:2
CD2:11, CD2:12
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CCT:61, CCT:62
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Insert New Pages

Checklist of up-to-date pages
(following Table of Contents)

SH:3
CD2:1, CD2:2
CD2:11, CD2:12
CD2:29—CD2:34
CD90:17—CD90:20.1
CD94:205—CD94:208.1
CDA:3—CDA:11
CCT:61, CCT:62
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MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2021-0154, enacted December 14, 2021.

See the Code Comparative Table for further information.

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xiii—xix
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SH:3
CD2:7, CD2:8
CD6:3—CD6:10
CD6:19, CD6:20
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CD94:1—CD94:3
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CD94:49—CD94:58
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Insert New Pages

Title page
xiii—xix
Checklist of up-to-date pages
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SH:3
CD2:7, CD2:8
CD6:3—CD6:10
CD6:19—CD6:20.1
CD6:29—CD6:37
CD18:1—CD18:6
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CD94:49—CD94:58.1
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CD94:151—CD94:160.1
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Insert New Pages

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CDi:31, CDi:32
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CDi:47—CDi:48.1
CDi:53—CDi:64
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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2021-0078, enacted July 27, 2021.

See the Code Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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SH:3	SH:3
CD2:3, CD2:4	CD2:3, CD2:4
CD2:15, CD2:16	CD2:15, CD2:16
CD2:31—CD2:34	CD2:31—CD2:34
CD18:5—CD18:6.1	CD18:5—CD18:6.1
CD30:5, CD30:6	CD30:5—CD30:6.1
CD58:3—CD58:8.1	CD58:3—CD58:8
CD58:29—CD58:38	CD58:29—CD58:36
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CD86:35—CD86:36.1	CD86:35—CD86:36.1
CD94:1, CD94:2	CD94:1, CD94:2
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MUNICIPAL CODE

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BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2020-0156, enacted November 10, 2020.

See the Code Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
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CD2:29—CD2:34	CD2:29—CD2:34
CD6:3—CD6:10	CD6:3—CD6:10
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City of

BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2020-0080, enacted July 28, 2020.

See the Code Comparative Table 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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CD2:1, CD2:2	CD2:1, CD2:2
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CD6:3—CD6:10	CD6:3—CD6:10
CD18:1, CD18:2	CD18:1, CD18:2
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CD18:11—CD18:29	CD18:11—CD18:32
CD58:3	CD58:3
CD58:7—CD58:12	CD58:7—CD58:12
CD58:25—CD58:30	CD58:25—CD58:30
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CDi:9—CDi:12	CDi:9—CDi:12
CDi:19—CDi:26	CDi:19—CDi:26
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CDi:47—CDi:50	CDi:47—CDi:50
CDi:69, CDi:70	CDi:69, CDi:70

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MUNICIPAL CODE

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BRANSON, MISSOURI

Looseleaf Supplement

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

Ordinance No. 2019-0131, enacted September 24, 2019.

See the Code Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
xv—xix	xv—xix
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:1, SH:2	SH:1, SH:2
CD1:3—CD1:10	CD1:3—CD1:12
CD58:1—CD58:3	CD58:1—CD58:3
CD58:17—CD58:22.1	CD58:17—CD58:22.1
CD58:29—CD58:32	CD58:29—CD58:32
CD62:3—CD62:6	CD62:3—CD62:6
CD70:1—CD70:30	CD70:1
CD78:3, CD78:4	CD78:3, CD78:4
CD86:3, CD86:4	CD86:3, CD86:4
CD86:34.1—CD86:36	CD86:35—CD86:36.1
CD94:1—CD94:3	CD94:1—CD94:3
CD94:9—CD94:30.1	CD94:9—CD94:30.5
CD94:57—CD94:72	CD94:57—CD94:72.1
CD94:95—CD94:98	CD94:95—CD94:98.1
CD94:107—CD94:114	CD94:107—CD94:114.2
CD94:135, CD94:136	CD94:135, CD94:136
CD94:163—CD94:166	CD94:163—CD94:166.1
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SLT:1—SLT:7	SLT:1—SLT:7
CDi:1—CDi:2.1	CDi:1, CDi:2
CDi:7—CDi:68.1	CDi:7—CDi:64
CDi:71, CDi:72	CDi:71, CDi:72
CDi:79—CDi:93	CDi:79—CDi:94

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

Ordinance No. 2019-0075, enacted June 25, 2019.

See the Code Comparative Table for further information.

<i>Remove Old Pages</i>	<i>Insert New Pages</i>
xv—xix	xv—xix
Checklist of up-to-date pages	Checklist of up-to-date pages (following Table of Contents)
SH:1, SH:2	SH:1, SH:2
CD2:3, CD2:4	CD2:3, CD2:4
CD2:8.1	CD2:8.1
CD2:23—CD2:28	CD2:23—CD2:28
CD18:3, CD18:4	CD18:3, CD18:4
CD58:3	CD58:3
CD58:7—CD58:22	CD58:7—CD58:22.1
CD58:29—CD58:36	CD58:29—CD58:36
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CD94:1—CD94:3	CD94:1—CD94:3
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CD94:17, CD94:18	CD94:17, CD94:18
CD94:29, CD94:30	CD94:29—CD94:30.1
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CD94:77—CD94:124	CD94:77—CD94:124
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CDi:1, CDi:2	CDi:1—CDi:2.1
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SUPPLEMENT NO. 8
December 2018

MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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Ordinance No. 2018-0195, enacted December 11, 2018.

See the Code Comparative Table for further information.

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Ordinance No. 2018-0068, enacted July 10, 2018.

See the Code Comparative Table for further information.

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City of

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

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See the Code Comparative Table for further information.

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December 2016

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Ordinance No. 2016-0129, enacted October 25, 2016.

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SUPPLEMENT NO. 2
July 2016

MUNICIPAL CODE

City of

BRANSON, MISSOURI

Looseleaf Supplement

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Ordinance No. 2016-0053, enacted May 24, 2016.

See the Code Comparative Table for further information.

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MUNICIPAL CODE

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PREFACE

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

Source materials used in the preparation of the Code were the 2005 Code, as supplemented through October 23, 2012, and ordinances subsequently adopted by the board of aldermen. 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 2005 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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Index

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, Howard George, Editor, and Andrea Gill, Editor, of the

Municode, 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 Lisa Westfall, City Clerk, for her 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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**(This checklist will be updated with the
printing of each Supplement)**

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.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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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 "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

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

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
2015-0112	10-27-2015	Include	1
2015-0113	10-27-2015	Include	1
2015-0126	11-10-2015	Include	1
2015-0127	11-10-2015	Include	1
2015-0129	11-10-2015	Include	1
2015-0155	11-24-2015	Include	1
2015-0156	11-24-2015	Include	1
2015-0163	12- 8-2015	Include	1
2015-0187	12-15-2015	Include	1
2015-0188	12-15-2015	Include	1
2016-0020	3- 8-2016	Include	2
2016-0040	4-12-2016	Include	2
2016-0050	5-10-2016	Include	2
2016-0053	5-24-2016	Include	2
2016-0110	9-27-2016	Include	3
2016-0129	10-25-2016	Include	3
2016-0193	12-13-2016	Include	4
2017-0003	1-10-2017	Include	5
2017-0011	2-14-2017	Include	5
2017-0014	2-14-2017	Include	5
2017-0019	2-28-2017	Include	5
2017-0046	3-28-2017	Include	5
2017-0069	6-13-2017	Include	5
2017-0072	6-13-2017	Include	5
2017-0082	7-11-2017	Include	5
2017-0085	8-22-2017	Include	6
2017-0095	9-12-2017	Include	6
2017-0096	9-12-2017	Include	6
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2017-0135	11-13-2017	Include	6
2017-0160	11-28-2017	Include	6
2017-0165	11-28-2017	Include	6
2017-0171	12-12-2017	Include	6
2017-0187	12-18-2017	Include	7
2018-0015	3-27-2018	Include	7
2018-0029	4-10-2018	Include	7
2018-0030	4-10-2018	Include	7
2018-0038	4-10-2018	Include	7
2018-0060	6-12-2018	Include	7
2018-0062	6-26-2018	Include	7
2018-0067	7-10-2018	Include	7
2018-0068	7-10-2018	Include	7
2018-0095	9-11-2018	Include	8
2018-0097	9-25-2018	Include	8
2018-0098	9-25-2018	Include	8
2018-0121	10-23-2018	Include	8
2018-0122	11-13-2018	Include	8
2018-0147	11-13-2018	Include	8
2018-0148	11-13-2018	Include	8
2018-0161	11-27-2018	Include	8
2018-0195	12-11-2018	Include	8
2019-0017	2-26-2019	Include	9
2019-0021	2-26-2019	Include	9
2019-0023	2-26-2019	Include	9
2019-0027	3-12-2019	Include	9
2019-0028	3-12-2019	Include	9
2019-0031	3-12-2019	Include	9
2019-0071	6-11-2019	Include	9
2019-0075	6-25-2019	Include	9
2019-0107	8-27-2019	Include	10
2019-0108	8-27-2019	Include	10
2019-0130	9-24-2019	Include	10
2019-0131	9-24-2019	Include	10
2019-0180	11-26-2019	Include	11
2019-0204	11-26-2019	Include	11
2019-0212	12-10-2019	Include	11
2020-0012	1-14-2020	Include	11
2020-0013	1-28-2020	Include	11
2020-0022	1-28-2020	Include	11
2020-0034	3-10-2020	Include	11
2020-0039	3-19-2020	Include	11
2020-0040	3-19-2020	Include	11
2020-0051	3-19-2020	Include	11
2020-0052	3-23-2020	Include	11
2020-0053	5- 4-2020	Include	11

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2020-0080	7-28-2020	Include	11
2020-0072	7-28-2020	Include	12
2020-0083	8-11-2020	Include	12
2020-0089	8-25-2020	Include	12
2020-0093	8-25-2020	Include	12
2020-0094	8-25-2020	Include	12
2020-0095	8-25-2020	Include	12
2020-0125	10-27-2020	Include	12
2020-0143	10-27-2020	Include	12
2020-0154	11-10-2020	Include	12
2020-0155	11-10-2020	Include	12
2020-0156	11-10-2020	Include	12
2021-0013	2- 9-2021	Include	13
2021-0025	3- 9-2021	Include	13
2021-0035	4-13-2021	Include	13
2021-0036	4-13-2021	Include	13
2021-0042	5-11-2021	Include	13
2021-0044	5-25-2021	Include	13
2021-0058	5-25-2021	Include	13
2021-0070	6-22-2021	Include	13
2021-0078	7-27-2021	Include	13
2021-0083	8-10-2021	Include	14
2021-0091	8-10-2021	Include	14
2021-0092	8-10-2021	Include	14
2021-0093	8-10-2021	Include	14
2021-0101	9-14-2021	Include	14
2021-0108	10-26-2021	Include	14
2021-0116	10-26-2021	Include	14
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2022-0029	5-10-2022	Include	15
2022-0054	7-12-2022	Include	15
2022-0055	7-12-2022	Include	15
2022-0094	11-22-2022	Include	16
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2023-0005	2-28-2023	Include	17
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2023-0055	5-23-2023	Include	17
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2023-0073	7-11-2023	Include	18
2023-0074	7-11-2023	Include	18
2023-0081	8- 8-2023	Include	18
2023-0085	8- 8-2023	Include	18
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2023-0122	10-10-2023	Include	18
2023-0125	10-24-2023	Include	18
2023-0127	11-14-2023	Include	18
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2023-0140	12-12-2023	Include	18
2024-0003	1-23-2024	Include	19
2024-0005	1-23-2024	Include	19
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2024-0017	2-27-2024	Include	19
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2024-0019	3-12-2024	Include	19
2024-0020	3-12-2024	Include	19
2024-0021	3-12-2024	Include	19
2024-0026	3-26-2024	Include	19
2024-0027	3-26-2024	Include	19
2024-0029	4- 9-2024	Include	19
2024-0040	4-23-2024	Include	19
2024-0043	5-14-2024	Include	19
2024-0049	6-11-2024	Include	19
2024-0050	6-11-2024	Include	19
2024-0053	6-11-2024	Include	19
2024-0054	6-25-2024	Include	20
2024-0061	7- 9-2024	Include	20
2024-0067	7-23-2024	Include	20
2024-0071	8-13-2024	Include	20
2024-0080	9-10-2024	Include	20
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2024-0082	9-24-2024	Include	20
2024-0086	10- 8-2024	Include	20
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Chapter 1

GENERAL PROVISIONS*

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Sec. 1-3.	Provisions considered as continuations of existing ordinances.
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Sec. 1-15.	Parties to an offense.
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Sec. 1-17.	Denial of licenses based on criminal conviction of applicant.
Sec. 1-18.	Ordinances not affected by adoption of Code.
Sec. 1-19.	Numbering, style and passage of ordinances.
Sec. 1-20.	Records.
Sec. 1-21.	Effect of section renumbering on city signs and forms.

***State law references**—State laws and statutes, RSMo 1.010 et seq.; ordinance codification and revision procedure, RSMo 71.940 et seq.

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

This Code shall be known and may be cited as the "Branson Municipal Code."

(Code 2005, § 1-1)

State law references—Codification of municipal general ordinances, RSMo 71.943; codification defined, RSMo 71.940; style or ordinances, RSMo 77.080.

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

(a) In the construction of this Code and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the board or the context clearly requires otherwise:

Abatement. The term "abatement" means the act of eliminating or terminating a condition.

Alley. The term "alley" means a minor way, dedicated to public use, used primarily for vehicular service access to the back or side of properties otherwise on a street.

Appointed officers. Appointed officers shall be appointed by the mayor and board and shall mean the city administrator, city attorney, city clerk, and such other officers that the board and mayor may choose to appoint by ordinance.

Basement. The term "basement" means a portion of a building or structure which is wholly or partly below ground level, the ceiling of which is less than four feet above ground, which shall not be included as a story.

Board. The term "board of aldermen," "board" or "governing authority" means the board of aldermen of the city of Branson, Missouri, which consists of six elected officials, two elected from each ward.

Board of adjustment. The term "board of adjustment" means the board of adjustment of the city consisting of five members appointed by the board who are residents in the city and who hear appeals concerning interpretation or administration of zoning regulations of the city.

Board of appeals. The term "board of appeals" means the building code board of appeals of the city consisting of five members appointed by the board who are residents in the city and who hear

and rule on appeals concerning interpretation or administration of building regulations of the city.

Building. The term "building" means a structure used for or capable of supporting or sheltering any use or occupancy, or which has the capacity to contain humans, animals, or property. The term "building" also means the erection, acquisition, alteration, remodeling, improvement or extension of a project.

Church. The term "church" means any building or structure regularly and primarily used as a place of worship and religious training by any organized religious society, organization, or congregation. The term "church" may also include a building or structure which was not originally designed and constructed for that purpose, or accessory housing facilities such as a rectory. In the context of any regulations concerning marijuana, the term "church" means a permanent building primarily and regularly used as a place of religious worship.

City. The term "the city" or "this city" shall be construed as if followed by the words "of Branson, Missouri."

City administrator. The term "city administrator" means the chief executive officer appointed by the mayor and board for an indefinite term.

Code. The term "the Code" or "this Code" means the Branson Municipal Code.

Comprehensive facility. The term "comprehensive facility" means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility or a comprehensive marijuana-infused products manufacturing facility.

Comprehensive marijuana cultivation facility. The term "comprehensive marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, package, store on-site or off-site, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive 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. The term "comprehensive marijuana dispensary facility" means a facility licensed by the department to acquire, process, package, store on-site or off-site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient or primary caregiver, as those terms are defined in section I of Article XIV [of the Constitution], 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 this article 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 set forth in this article and provided for by general or local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

Comprehensive marijuana-infused products manufacturing facility. The term "comprehensive marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facil-

ity. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

Computation of time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday, in which case it shall also be excluded.

State law reference—Similar construction, RSMo 1.040.

Contamination or contaminated. The term "contamination" or "contaminated" means the presence of chemical residues, sewage, process fluids or other wastes which may present an immediate or long-term threat to public health or the environment, or cause impairment of the quality of the water.

Contractor. The term "contractor" means a person who performs, or causes to be performed by employees or subcontractors, one or more of the categories of construction, building trades or property maintenance that perform work within the city limits.

County. The term "the county" or "this county" means the County of Taney.

Customer. The term "customer" means any person who purchases or otherwise partakes of any merchandise, goods or services offered by the city or other service provider.

Day. The term "day" means any period of 24 hours.

Daycare. The term "daycare" means a child-care facility, as defined by RSMo. 210.201, or successor provisions, that is licensed by the State of Missouri.

Daytime, nighttime. The term "daytime" means the period of time between sunrise and sunset. The term "nighttime" means the period of time between sunset and sunrise.

Delegation of authority. Whenever a provision appears requiring an officer or the head of a department of the city to do some act or make certain inspections it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform

the required act or make the required inspection unless the terms of the provision or section designates otherwise.

Developer. The term "developer" means the individual, corporation, partnership, joint venture, association or other legal entities paying all costs associated with the construction of an improvement under a permit granted by the city.

Dwelling. The term "dwelling" means any building, structure or portion thereof, which is designed, occupied or used exclusively for residential purposes.

Elected officials. The term "elected officials" means the mayor and board, who shall be elected by the citizens of the city. The term shall also include the city clerk, who is elected by the board as provided by RSMo 79.320.

Employee. The term "employee" means any person in the regular employ of a merchant, business or contractor, and whose wages, tips, commissions, fees, draw accounts, salary, or any combination thereof, are computed on an hourly, weekly or monthly basis.

Enclosed, locked facility. The term "enclosed, locked facility" means:

- (1) An indoor stationary closet, room, garage, greenhouse, or other comparable fully enclosed space equipped with locks or other functioning security devices that permit access only to the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; or
- (2) An outdoor stationary structure:
 - a. That is enclosed on all sides, except at the base, by chain-link fencing, wooden slats, or a similar material that is anchored, attached or affixed to the ground and that cannot be accessed from the top;
 - b. In which the plants are not visible to the unaided eye from an adjacent property when viewed by an

individual at ground level or from a permanent structure at any level; and

- c. That is equipped with locks or other security devices that restrict access to only the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana.

Fee schedule. The term "fee schedule" means the official consolidated list included in appendix A to this Code, that lists city fees and service charges as determined and adopted from time to time by the board.

Flowering marijuana plant. The term "flowering marijuana plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

Gender. Terms importing the masculine gender include the feminine and neuter.

State law reference—Similar construction, RSMo 1.030.

Highway. The term "highway" means a street under the control of the State of Missouri.

In the city. The term "in the city" means and includes all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. All terms giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

State law reference—Similar construction, RSMo 1.050.

Law. The term "law" denotes applicable federal law, the Constitution and statutes of the state, this Code and other ordinances of the city, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

Marijuana or marihuana. The term "marijuana" or "marihuana" means *Cannabis indica*, *Cannabis ruderalis*, *Cannabis sativa*, and hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-

infused products. It does not include industrial hemp containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

Marijuana dispensary. The term "marijuana dispensary" means either a medical marijuana dispensary, a comprehensive marijuana dispensary, or a micro-business as those terms are defined in Art. XIV of the Constitution.

Marijuana facility. The term "marijuana facility" shall mean a medical marijuana facility or a comprehensive facility as that term is defined by Art. XIV, Section 2 of the Constitution.

Marijuana-infused products. The term "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.

May. The term "may" is permissive.

Mayor. The term "mayor" means the elected official who presides over the board and is elected at large.

Medical marijuana cultivation facility. The term "medical marijuana cultivation facility" means a facility licensed by the state department of health and senior services to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

Medical marijuana dispensary facility. The term "medical marijuana dispensary facility" means a facility licensed by the state department of health and senior services to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana

dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

Medical marijuana-infused products manufacturing facility. The term "medical marijuana-infused products manufacturing facility" means a facility licensed by the state department of health and senior services to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

Medical marijuana testing facility. The term "medical marijuana testing facility" means a facility certified by the state department of health and senior services to acquire, test, certify, and transport marijuana.

Medical use means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

Microbusiness dispensary facility. The term "microbusiness dispensary facility" means a facility licensed by the department to acquire, process, package, store on-site or off-site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a consumer, qualifying patient, as the term is defined in Section I of Article XIV 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 such Article XIV and as 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 internet,

including from a third party. A microbusiness dispensary facility's authority to process marijuana shall include the creation of prerolls.

Microbusiness wholesale facility. The term "microbusiness wholesale facility" means a facility licensed by the department to acquire, cultivate, process, package, store on-site or off-site, manufacture, transport to or from, deliver, and sell 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. A microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and marijuana infused products.

Misdemeanor. See subsection 1-13(a).

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

State law reference—Similar definition, RSMo 1.020(11).

Number. The singular number includes the plural, and the plural includes the singular.

State law reference—Similar construction, RSMo 1.030.

Oath. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" or "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officer. The term "officer" means any person defined as a director as appointed by the city administrator.

Official time. Whenever certain hours are named in this Code, they mean central standard time or daylight saving time, as may be in current use in the city.

Ordinance. The term "ordinance" means a legislative act of the board of a general and permanent nature.

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

Person. The term "person" means any individual, partnership, copartnership, firm, association, organization, labor organization, company, mutual company, joint stock company, corporation, unincorporated associated or other entity, syndicate, legal representative, trust, trustees, receivers, fiduciaries, or other organized group of individuals or business entities operated on a profit or nonprofit basis. The term, unless otherwise specifically provided, includes federal, state and local governments and any subdivisions thereof. As applied to business obligations or prohibitions, the term includes the business entities and its employees or agents. If the term is used in prescribing a penalty or fine, then for business entities, "person" includes partners, officers, agents or other member thereof who are responsible for the violation, to the extent permitted by state law.

State law reference—Similar provisions, RSMo 1.020(12).

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

State law reference—Similar definition, RSMo 1.020(13).

Physician means an individual who is licensed and in good standing to practice medicine or osteopathy under the state law.

Physician certification. The term "physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

Planning commission. The term "planning commission" means the City of Branson Planning and Zoning Commission.

Preceding, following. The terms "preceding" and "following," when used by way of reference to any section of this Code, mean the section next preceding or next following that in which the reference is made, unless some other section is expressly designated in the reference.

State law reference—Similar definition, RSMo 1.020(15).

Primary caregiver. The term "primary caregiver" means an individual 21 years of age or older who has significant responsibility for

managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the state department of health and senior services.

Process. The term "process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. The term "property" means anything that may be the subject of ownership or possession, including, but not limited to, land, buildings, structures, vehicles, and personal belongings.

State law reference—Similar provisions, RSMo 1.020(16).

Public holidays. The term "public holidays" means those days that city offices are closed for city-recognized holidays.

Qualified patient cultivation card. The term "qualified patient cultivation card" means a card issued by the state department of health and senior services to a qualifying patient or his primary caregiver authorizing the cultivation of up to six flowering marijuana plants for the exclusive use of that qualifying patient.

Qualified patient identification card. The term "qualified patient identification card" means a card issued by the state department of health and senior services to a qualifying patient authorizing the consumption of marijuana.

Qualifying medical condition. The term "qualifying medical condition" means the condition of, symptoms related to, or side effects from the treatment of:

- (1) Cancer;
- (2) Epilepsy;
- (3) Glaucoma;
- (4) Intractable migraines unresponsive to other treatment;
- (5) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

- (6) Debilitating psychiatric disorders including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;
- (7) Human immunodeficiency virus or acquired immune deficiency syndrome;
- (8) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;
- (9) Any terminal illness; or
- (10) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

Qualifying patient means a state resident diagnosed with at least one qualifying medical condition.

Quarterly means January 1 through March 31, April 1 through June 30, July 1 through September 30, October 1 through December 31.

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

State law reference—Similar definitions, RSMo 1.020(17).

Resolution. The term "resolution" means a legislative or administrative act of the board of a special or temporary character.

Right-of-way. The term "right-of-way" means the surface of and the space above and below any property or land opened, reserved, dedicated to or owned by a public governmental body for the purposes of streets or highways and associated

public improvements, alleys, sidewalks, pedestrian walkways, drainage, traffic signage, utilities, landscaping and other similar purposes.

Roadway. The term "roadway" means the portion of public street, road, or highway improved, designed or delivered or ordinarily used for vehicular travel and extending from one curb or edge of pavement to the opposite curb or edge of pavement, including lanes commonly used for parking and including center medians and lane dividers.

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

School. The term "school" means any building which is regularly used as public, private, parochial or denominational institution engaged in the provision of knowledge or training through formal instruction, schooling, teaching, or learning processes, including providing training for some particular purpose, such as vocational or technical school, whether elementary and secondary, or an institution where higher education courses are taught.

Setback. The term "setback" means the horizontal separation between the parcel line and the nearest point of a building or structure. The term "setback line" means a line generally parallel to the plot line, separated by a required distance.

Shall. The term "shall" is mandatory.

Sidewalk means that portion of a right-of-way between the curb lines or the lateral lines of pavement on the roadway and the adjacent property lines, paved and intended for use by pedestrians.

Signature or subscription by mark. The term "signature" or "subscription" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

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

State law reference—Similar provisions, RSMo § 1.020(18).

Street. The term "street" means a strip of land consisting of the entire right-of-way and the roadway.

Structure. The term "structure" means that which is built or constructed.

Tenant, occupant, owner of record. The term "tenant," "occupant" or "owner of record," applied to a building or land, includes any person holding a written or an oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

Week. A week consists of seven consecutive days.

Written, in writing, writing word for word. The terms "written" and "in writing" and "writing word for word" include printing, lithographing, or other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his mark, is intended.

State law reference—Similar definition, RSMo 1.020(22).

Year. The term "year" means a calendar year.

State law reference—Similar definition, RSMo 1.020(11).

(b) All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the board may be fully carried out.

(Code 2005, § 1-2; Ord. No. 2008-016, § 1, 2-11-2008; Ord. No. 2019-0107, § 2, 8-27-2019; Ord. No. 2020-0034, § 2, 3-10-2020; Ord. No. 2023-0026, § 2, 4-11-2023; Ord. No. 2023-0073, § 2, 7-11-2023)

State law references—Definitions, rules of construction, RSMo 1.020 et seq.; construction of words and phrases, RSMo 1.090.

Sec. 1-3. Provisions considered as continuations of existing ordinances.

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

(Code 2005, § 1-3)

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

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

(Code 2005, § 1-4)

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 2005, § 1-5)

State law reference—Severability of state statutes, RSMo 1.140.

Sec. 1-6. Catchlines of sections and other headings.

The catchlines of the several subsections and sections and the headings of chapters, articles and divisions of this Code are intended as mere catchwords to indicate the contents of the subsection, section, chapter, article or division and shall not be deemed or taken to be titles or substantive portions of such subsections, sections, chapters, articles or divisions, nor, unless expressly so provided, shall they be so deemed

when any such subsection, section, chapter, article or division, including the catchline or other heading, is amended or reenacted.

(Code 2005, § 1-6)

Sec. 1-7. Amendments to Code.

(a) Amendments to any of the sections or 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: "That section _____ of the Branson Municipal Code is hereby amended to read as follows: (set out new provisions in full)"

(b) When the board desires to enact an ordinance of a general and permanent nature on a subject not existing in the Code, which the board desires to incorporate into the Code, a section in substantially the following language shall be made a part of the ordinance: "Section _____. It is the intention of the board, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Branson Municipal Code, and the sections of this ordinance may be renumbered to accomplish such intention."

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

(Code 2005, § 1-7)

Sec. 1-8. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the board or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that,

when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 2005, § 1-8)

Sec. 1-9. History notes, editor's notes, and state law references.

The history notes appearing in parentheses after each section of this Code and the editor's notes and state law references throughout the Code are for the benefit of the user of the Code and shall not be considered as part of the text of the Code.

(Code 2005, § 1-9)

Sec. 1-10. Conflict of provisions.

(a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

(c) If any of the provisions hereof conflict, and the conflict cannot be resolved by application of subsections (a) and (b) of this section, the more stringent regulation shall apply and the specific provision shall prevail over the general.

Sec. 1-11. 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 violating this section shall be punished as provided in section 1-13.

(Code 2005, § 1-10)

State law reference—Tampering with a public record, RSMo 575.110.

Sec. 1-12. Newspaper publications.

All matters required to be published shall be published in any newspaper of general circulation qualified to publish legal notices in the city, unless specifically stated otherwise.

Sec. 1-13. General penalty; continuing violations.

(a) Any person violating a provision of this Code or other city ordinance is guilty of an ordinance violation and shall be subject to a fine not to exceed \$500.00 or a jail sentence not to exceed 90 days or both such fine and jail sentence, unless a lesser penalty is specifically provided by ordinance or is required by state law. Every day a violation continues constitutes a separate offense.

(b) In addition, any condition caused or permitted to exist in violation of this Code or other city ordinance is deemed a public nuisance that may be abated by the city as provided by law. Each day that such nuisance condition continues constitutes a separate offense.

(c) In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Code 1996, § 100.060; Code 2005, § 1-11; Ord. No. 2023-0053, § 2, 5-23-2023)

State law references—Maximum penalty for violations of ordinances, RSMo 77.590; fine and costs for violation of municipal ordinances, RSMo 479.080; probation as penalty for ordinance violation, RSMo 559.607.

Sec. 1-14. When same offense punishable under different ordinances.

In all cases wherein the same offense may be made punishable, or shall be created, by different provisions of this Code or other ordinances of the city, or by different clauses or sections of the same ordinance, the city attorney may elect under which to proceed, but not more than one recovery or penalty shall be had or enforced against the same person for the same offense, provided that the revocation of a license or permit or pursuit of any other remedy available at law shall not be considered a recovery or penalty so as to bar any other penalty or recovery being enforced or had.

(Code 2005, § 1-12)

Sec. 1-15. Parties to an offense.

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

(Code 2005, § 1-13)

Sec. 1-16. Equitable relief to aid in enforcement of ordinances.

In addition to any other penalties established for violations of any of the ordinances of the city or any provisions or sections of this Code, the official of the city responsible for enforcement of any such ordinance or Code section may apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with the provisions of this Code and any other ordinances adopted by the city. In such action, the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant.

(Code 2005, § 1-14)

Sec. 1-17. Denial of licenses based on criminal conviction of applicant.

Any provision of this Code which allows or requires the denial of a license based on a criminal conviction of the applicant is subject to RSMo 314.200, which requires that the issuer consider the application based on other evidence of character as well, while allowing the conviction to be used as some evidence of bad character.

(Code 2005, § 1-15)

Sec. 1-18. Ordinances not affected by adoption of Code.

The repeal provided for in section 1-4 shall not affect the following:

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

- (2) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds or notes of the city or any other evidence of the city's indebtedness, or authorizing any contract or obligation assumed by the city.
 - (3) The administrative ordinances of the city, not in conflict or inconsistent with the provisions of this Code.
 - (4) Any ordinance fixing salaries and compensation of the city officers or employees.
 - (5) Any ordinance appropriating funds and providing for expenses.
 - (6) Any right or franchise granted by the board to any person.
 - (7) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening or vacating any street or public way in the city.
 - (8) Any ordinance establishing and prescribing the grades of any street in the city.
 - (9) Any ordinance providing for local improvements or assessing taxes for such improvements.
 - (10) Any ordinance dedicating, accepting, or vacating any plat or subdivision in the city or any part thereof.
 - (11) Any ordinance annexing property to the city.
 - (12) Any zoning ordinance.
 - (13) Any ordinance rezoning specific property.
 - (14) Any ordinance prescribing traffic regulations for specific locations, speed limits, through streets, parking limitations, one-way traffic, stop signs, limitations on loads of vehicles or loading zones, not inconsistent with this Code.
 - (15) Any ordinance setting and establishing rates and charges for water, sewer, electricity or any other utility service furnished by the city to consumers thereof, not inconsistent with this Code.
 - (16) Any ordinance levying taxes on real or personal property or providing for the collection thereof.
 - (17) Any ordinance establishing TIF (tax increment financing) districts or redevelopment districts.
 - (18) Ordinance Nos. 92-14, 95-134, 96-028, 2001-157, 2001-158, 2002-014, 2002-143 and 2003-016.
(Code 2005, § 1-16)
- Sec. 1-19. Numbering, style and passage of ordinances.**
- (a) In addition to all requirements of the laws of the state concerning cities of the fourth class, each ordinance shall be numbered in the order in which it may be adopted and shall state in its title its general nature and object and shall be signed by the mayor, or acting president in the absence of the mayor, and attested by the city clerk.
 - (b) The board is authorized to have ordinances codified and printed in such manner as from time to time it shall deem necessary.
 - (c) The style of the ordinances of the city shall be: "Be it ordained by the Board of the City of Branson, Missouri, as follows: . . ." No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the board shall vote for it, and the "ayes" and "nays" be entered on the journal.
 - (d) Every proposed ordinance shall be introduced to the board in writing and shall be read by title or in full two times prior to passage. Both readings may occur at a single meeting of the board. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the board. No bill shall become an ordinance until it shall have been signed by the mayor or person exercising the duties of the mayor's office, or shall have been passed over the mayor's veto, as provided by law.
(Code 1988, § 100.050; Code 1996, § 100.040; Code 2005, § 1-18; Ord. No. 25, § 3, 9-22-1913;

Ord. No. 505, §§ 1—3, 9-26-1977; Ord. No. 88-70, §§ 2, 3, 9-26-1988; Ord. No. 91-25, § 1, 6-10-1991)

State law reference—Style of ordinances, RSMo 79.130.

Sec. 1-20. Records.

(a) All records (document, book, paper, photograph, map, sound recording, email or other material), regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business of the city, are declared to be property of the city.

(b) All records shall be retained according to the requirements of the state and any other applicable laws, procedures and policies.

(c) It shall be the duty of all employees, directors, officers and elected officials to follow and make sure all records are retained as required. It shall be the responsibility of the city clerk to determine the proper classification, retention procedures and housing of all city records.

(d) Upon leaving the employment or an office with the city, all records shall remain in the possession of the city or be deposited with the city clerk.

Sec. 1-21. Effect of section renumbering on city signs and forms.

Sections of this Code have been renumbered during recodification. Former section numbers appearing on public or private signs or included in various forms used by the city shall be deemed to refer to those sections as renumbered in this Code.

Chapter 2

ADMINISTRATION*

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- Sec. 2-1. City seal.
- Sec. 2-2. City wards designated.
- Secs. 2-3—2-22. Reserved.

Article II. Mayor and Board of Aldermen

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- Sec. 2-24. Assumption of office; term; benefits.
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- Sec. 2-61. Board to establish rules of procedure; journal of proceedings.
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- Sec. 2-65. Call to order.
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- Sec. 2-78. Procedure for debate during public hearings.
- Sec. 2-79. Reserved.
- Sec. 2-80. Applicability of Robert's Rules of Order.
- Secs. 2-81—2-105. Reserved.

***State law references**—Classification of cities, RSMo 72.030 et seq.; incorporation of fourth class cities, authority for common city seal, etc., RSMo 79.010 et seq.; public officers and employees; bonds and records, RSMo 103.003 et seq.; conduct of public business, RSMo 610.010 et seq.; regulation of conflict of interest and lobbying, RSMo 105.450 et seq.; Missouri Ethics Commission, RSMo 105.955; removal and impeachment of county and municipal officers, RSMo 106.220; bonds of officers and contractors for public works, RSMo 107.010 et seq.; public and business records, RSMo 109.005 et seq.; depositaries for public funds, RSMo 110.010 et seq.; taxes and fees associated with candidates for municipal office, RSMo 71.005; purchase of Missouri products by cities required, RSMo 71.140; property qualifications for officers prohibited, RSMo 71.150; financial administration and indebtedness in special charter cities, RSMo 95.415 et seq.

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Article III. Officers and Employees

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- Sec. 2-106. Human resources manual.
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- Sec. 2-109. Removal of elective officers.
- Sec. 2-110. Local government employees retirement system.
- Secs. 2-111—2-135. Reserved.

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- Sec. 2-136. Appointment; removal; powers and duties.
- Secs. 2-137—2-155. Reserved.

Division 3. City Attorney

- Sec. 2-156. Qualifications; powers and duties.
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- Sec. 2-181. Appointment, duties, term and compensation; deputy city clerk.
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- Sec. 2-190. Declaration of policy.
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ADMINISTRATION

- Sec. 2-285. Charge for returned checks.
- Sec. 2-286. Finance director.
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- Sec. 2-300. Purpose.
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- Sec. 2-302. Adoption of budget.
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- Sec. 2-330. Notice of meeting to fix rates.
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- Sec. 2-381. Definitions.

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- Sec. 2-382. Consultant information and qualifications.
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- Sec. 2-386. Definitions.
- Sec. 2-387. Opening meetings, votes and records; when closure permitted.
- Sec. 2-388. Records custodian appointed; duties.
- Sec. 2-389. Records to be available; denial of records requests; procedure; and fees.
- Secs. 2-390—2-415. Reserved.

ARTICLE I. IN GENERAL

Sec. 2-1. City seal.

The city seal shall be a seal with the words "City of Branson, Missouri," in the outside circle and the words "Incorporated, 1912" inside the circle with the word "Seal" in the center. It shall be attached to all ordinances, resolutions and orders passed by the board, and to the authentication of all official acts of the mayor and the city clerk.

(Code 1988, § 100.010; Code 1996, § 100.010; Code 2005, § 1-17; Ord. No. 26, § 1, 9-22-1913)

Sec. 2-2. City wards designated.

The wards of the board shall be legally described as provided in a map and legal description maintained on file in the office of the city clerk. (Code 1988, § 110.010; Code 1996, § 105.010; Code 2005, § 1-18; Ord. No. 453, §§ 1—4, 1-27-1975; Ord. No. 89-35, § 1, 9-25-1989; Ord. No. 96-093, § 1, 12-2-1996; Ord. No. 2001-164, § 1, 12-10-2001; Ord. No. 2011-092, § 1, 10-11-2011)

Secs. 2-3—2-22. Reserved.

ARTICLE II. MAYOR AND BOARD OF ALDERMEN*

DIVISION 1. GENERALLY

Sec. 2-23. Composition; election.

(a) There shall be two aldermen elected from each ward as provided by RSMo 115.121.

(b) The aldermen to be elected shall be those candidates receiving the highest number of votes in each ward to hold office for two years. Each ward shall elect annually one alderman who shall hold his office for two years.

***State law references**—Powers and duties of mayor and board generally, RSMo 79.070 et seq.; mayor may sit on board, RSMo 79.120; bills must be signed, mayor's veto, RSMo 79.140; board required to keep journal of proceedings, RSMo 79.150; board to publish semiannual statements, RSMo 79.160.

(c) The uniform filing period for all elective municipal offices shall be in accordance with RSMo 76.060, with no further action required by the board. The city clerk is directed to contact all interested media, annually, with public notice of the information mentioned in this subsection. (Code 1988, § 110.010; Code 1996, § 105.010; Code 2005, § 2-51(a)—(c); Ord. No. 453, §§ 1—4, 1-27-1975; Ord. No. 89-35, § 1, 9-25-1989; Ord. No. 96-093, § 1, 12-2-1996; Ord. No. 2001-164, § 1, 12-10-2001; Ord. No. 2011-092, § 1, 10-11-2011)

Sec. 2-24. Assumption of office; term; benefits.

(a) The mayor and aldermen shall enter upon the discharge of the duties of their office at the next regular meeting of the board of the city following the certification of the election. They shall hold their offices for two years unless in case of vacancies and until their successors are elected and qualified.

(b) Any person who commences a new term as an alderman for the city or who is elected to the office of mayor shall be eligible to participate in the insurance plans for the city including health insurance, life insurance or dental insurance available to the city's full-time employees. These benefits are also to be provided to the spouses or dependents of the board or mayor, if the spouses or dependents choose to participate, and the city shall provide, if requested, such benefits to the board and mayor at the same costs that are charged for full-time city employees, their spouses and dependents.

(c) Participation in the city's insurance plan by any elected official shall not become effective until the official seeking participation in the plan has commenced a new term as an elected official for the city. The provision of benefits through the city's insurance plan by any elected official shall not become effective until the official seeking participation in the plan has commenced a new term as an elected official for the city. (Code 1988, § 115.010; Code 1996, § 115.010; Code 2005, § 2-52; Ord. No. 449, § 1, 5-28-1974; Ord. No. 2003-285, 12-8-2003)

Sec. 2-25. Powers and duties of mayor.

The mayor shall sign all warrants, bonds, or other forms of evidence of the city indebtedness, the issue of which has been or may be legally authorized previous to the signing of the warrant, bond, or other form of evidence. He shall sign and properly execute all deeds to sales of real estate which the city may sell when properly authorized to do so by the board, and shall perform such other duties as may be, by law or ordinance, imposed upon him.

(Code 1988, § 115.040; Code 1996, § 115.020; Code 2005, § 2-31; Ord. No. 6, §§ 1, 2, 9-22-1913)

Sec. 2-26. Election and term of acting president.

The board shall, at its first meeting in April of each year, elect one of its own number who shall be styled "acting president of the board" and who shall serve for a term of one year.

(Code 1988, § 110.060; Code 1996, § 105.050; Code 2005, § 2-58; Ord. No. 4, § 9, 9-22-1913; Ord. No. 95-12, §§ 1, 2, 1-23-1995)

State law reference—Similar provisions, RSMo 79.090.

Sec. 2-27. Acting president to perform duties of mayor.

When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, or refusal to qualify, or from any other cause whatsoever, the acting president of the board shall, for the time being, perform the duties of mayor, with all rights, privileges, powers and jurisdiction of the mayor, until such vacancy be filled or such disability be removed; or, in the case of temporary absence, until the mayor's return.

(Code 1996, § 105.060; Code 2005, § 2-59; Ord. No. 95-12, § 3, 1-23-1995)

State law reference—Acting president to perform duties of mayor, RSMo 79.100.

Sec. 2-28. Administrative/supervisory committees.

(a) The mayor may appoint members of the board to serve on the following committees:

- (1) Human resources committee.
- (2) Finance committee.

(b) The duties of the human resources committee shall be:

- (1) To review and make recommendations to the board regarding all amendment to the city's human resources manual.
- (2) To review and make recommendations to the board regarding all amendments to the salary schedules for each budget year.
- (3) To review employee benefit packages annually.
- (4) To review and recommend policies to the board regarding staff development.
- (5) To assume other responsibilities as may from time to time be assigned by the board.

(c) The duties of the finance committee shall be:

- (1) To review and recommend the operations budget to the board.
- (2) To review and recommend changes to the city's purchasing and accounting procedures to the board.
- (3) To review and recommend to the board procedures necessary to ensure the financial health of the city.
- (4) To assume other responsibilities as may from time to time be assigned by the board.
- (5) To review and recommend capital improvements to the board each fiscal year.

(d) The mayor and city administrator shall serve on each of the committees mentioned in this section along with the appointed members of the board.

(e) Additionally, the mayor and the board may appoint citizens to serve on each of the committees. Appointees must be a citizen of the city or associated with a business operating inside the city limits.

(f) Each committee shall adopt procedures as necessary to allow for the efficient administering of their assigned duties.

(g) Each committee member shall have a right to vote.

(Code 1988, § 110.080; Code 1996, § 105.090; Code 2005, § 2-60; Ord. No. 652, §§ 1—6, 6-25-1984; Ord. No. 2007-060, § 1, 6-11-2007; Ord. No. 2012-0027, § 1, 2-14-2012; Ord. No. 2020-0071, § 2, 7-14-2020; Ord. No. 2020-0143, § 2, 10-27-2020; Ord. No. 2022-0129, § 2, 12-13-2022)

Secs. 2-29—2-60. Reserved.

DIVISION 2. PROCEDURE

Sec. 2-61. Board to establish rules of procedure; journal of proceedings.

The board shall determine its own rules, order of business, and conduct of public meetings, and shall provide for keeping a journal of its proceedings, also known as the minutes. This journal shall be kept by the city clerk and shall be a public record. Notices and conduct of all meetings shall be in accordance with RSMo ch. 610. (Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(a); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008; Ord. No. 2018-0015, § 2, 3-27-2018; Ord. No. 2021-0136, § 2, 11-23-2021; Ord. No. 2022-0105, § 2, 12-13-2022)

Sec. 2-62. Regular meetings and agenda.

(a) *Meetings.* The board shall meet in regular session on the second and fourth Tuesday of each month, at the hour of 6:00 p.m., unless cancelled or otherwise rescheduled by a majority of the board.

(b) *Agenda.* All ordinances, resolutions, discussions, documents and presentations (agenda items) shall, as far as practical, be delivered to the city administrator six days prior to the meeting. As early as practicable before the meeting, the city administrator shall list the matters to be

addressed at the meeting in an agenda according to the order of business and make same available for the board, staff and public in compliance with state law. Items of discussion and other matters shall be added to the agenda when requested in writing by: 1) two or more aldermen; or 2) the mayor and one or more aldermen, when they are delivered to the city administrator six days prior to the meeting to allow for ample staff preparation time. The city administrator, city attorney, or department directors shall be able to submit agenda items.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, §§ 2-54(a), (b); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008; Ord. No. 2018-0015, § 2, 3-27-2018; Ord. No. 2021-0136, § 2, 11-23-2021; Ord. No. 2022-0105, § 2, 12-13-2022)

Sec. 2-63. Other meetings.

(a) *Executive sessions.* Executive sessions may be scheduled for the purposes allowed by RSMo ch. 610.

(b) *Pre-sessions.* Pre-sessions may be scheduled to brief the board on items included on the agenda.

(c) *Special meetings.* Special meetings may be scheduled when the mayor or any two members of the board call a special meeting.

(d) *Study sessions.* Study sessions may be scheduled as needed.

(Code 1988, § 110.040; Code 1996, § 105.040; Code 2005, § 2-57; Ord. No. 4, § 7, 9-22-1913)

Sec. 2-64. Presiding officer.

The mayor shall be the presiding officer of the board and shall preserve strict order and decorum at all meetings of the board. He shall state every question coming before the board, announce the decision of the board on all subjects and decide

all questions of order. Any decision or ruling of the mayor may be appealed to the board as a whole by request of any member. The mayor shall call for roll call to see if the chair shall be upheld; if the roll call loses, the mayor is reversed. The mayor may only vote in the case of a tie vote, however, the acting president may move, second and debate when he is serving as the presiding officer and shall not be deprived of any of the rights and privileges of a board member.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, §§ 2-54(c), (k)(1); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-65. Call to order.

The mayor or, in his absence, the acting president, shall call the board to order at the scheduled meeting time. In the absence of the mayor or acting president, the city clerk shall call the board to order. A temporary chairman shall then be elected by the members of the board present. When the mayor or acting president arrives, the temporary chairman shall relinquish the chair when the business immediately before the board is finished.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(d); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-66. Roll call.

Before proceeding with the business of the board, the city clerk shall call the roll of the members, and the names of those present shall be entered in the minutes.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(e); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-67. Quorum.

A quorum shall consist of a majority of the elected members of the board. All meetings shall be held in accordance with RSMo ch. 610.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(f); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-68. Ordinances.

No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the board shall vote for it, and the ayes and nays be entered on the journal. Every proposed ordinance shall be introduced to the board in writing and shall be read by title or in full two times prior to passage, both readings may occur at a single meeting of the board. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the board. No bill shall become an ordinance until it has been signed by

the mayor or person exercising the duties of the mayor's office, or has been passed over the mayor's veto, as provided by law.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(g); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-69. Resolutions.

Any resolution may be passed at the meeting at which it is introduced.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(h); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-70. Order of business; consent agenda.

(a) The order of business at all regular meetings shall ordinarily be as follows:

- (1) Call to order.
- (2) Pledge of Allegiance.
- (3) Invocation.
- (4) Roll call.
- (5) Awards/recognitions.
- (6) Public comment.
- (7) Consent agenda.
- (8) Regular agenda.
- (9) Mayor/aldermen/administrator's reports.
- (10) Adjournment.

(b) The presiding officer may consider items out of sequence from the printed agenda upon a motion and the affirmative vote of two-thirds of the members of the board present.

(c) The purpose of the public comment is to accommodate members of the public who have comments regarding city business that the board has jurisdiction or authority to take action on. Each person wishing to speak during public comment must personally sign up prior to the opening of the board meeting and shall provide their name and topic(s) to bring before the board. No person shall be allowed to speak who did not personally sign up requesting the opportunity to speak. Each speaker must present comments regarding city business only and shall have a total of five minutes within which to make their comments. Any meeting where ten or more speakers sign up to speak during public comment, the time shall be reduced to a three-minute limit. The mayor or board may address any issues raised by any speaker at any point during the meeting without counting against the speaker's time limit. There may be additional time added for comments and questions from the mayor, board or city staff directed to the speaker for the speaker's response. A person may only speak one time per public comment period. Items raised under public comment may be referred to the city administrator, who shall diligently work to provide answers back to the constituent or board after consulting with appropriate staff. No questions shall be asked a board member except through and with the permission of the presiding officer.

(d) All second readings will be handled under consent agenda. The consent agenda matters are routine and may be adopted by one motion. There will be no discussion of separate items, unless members of the board or staff request that a specific item be removed from the consent agenda for individual consideration and discussion and placed on the regular agenda.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, §§ 2-54(i), (l); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002;

Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008; Ord. No. 2023-0085, § 2, 8-8-2023)

Sec. 2-71. Procedures for regular agenda.

The following shall be the procedures when debating an item on the agenda:

- (1) The presiding officer shall state the issue before the board.
 - (2) The presiding officer shall obtain a motion and a second before opening the floor for debate or discussion. Staff will then have an opportunity to present a brief and thorough report on an issue.
 - (3) Board members shall be allotted time to present their positions and concerns if they so desire.
 - (4) Interested members of the community shall have an opportunity to express their positions on an item. Testimony or discussion by interested members of the community in support or opposition of an issue may be limited by the presiding officer when the discussion has become repetitive, and any alderman may request the same to the presiding officer. Additionally, the presiding officer may set a time limit for discussion and any alderman may request the same to the presiding officer.
 - (5) Board members shall be allotted time to present their positions and concerns and, if desired, to respond to statements expressed by interested members of the community.
- (Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(j); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008; Ord. No. 2023-0085, § 2, 8-8-2023)

Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008; Ord. No. 2024-0054, § 2, 6-25-2024)

Sec. 2-72. Rules of debate.

(a) *Obtaining the floor; improper references.* Every person desiring to speak on the question under debate shall first address the presiding officer, and shall refrain from specific personalities and indecorous language.

(b) *Interruptions.* A speaker, once recognized, shall not be interrupted when speaking unless it is to call to a point of order. If a speaker, while speaking, is called to order, he shall cease speaking until the question of order is determined, and if in order, he shall be permitted to proceed.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, §§ 2-54(k)(2), (3); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-73. Addressing the board.

Interested persons addressing the board must do so from the podium and prior to speaking must state their name for the record.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(l); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008; Ord. No. 2023-0085, § 2, 8-8-2023)

Sec. 2-74. Absentee communications.

If an individual is unable to attend a meeting, he may submit his comments pertaining to an

item, in writing, to the city administrator. However, these written comments on a particular agenda item must be in the city administrator's office no later than four days prior to the meeting. This communication will be distributed to the mayor and board prior to the meeting; however, it will not be read into the record at the meeting.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(m); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-75. Oral communications.

During the proper time on the agenda, taxpay-
ers or residents of the city may speak on an item.
However, if appropriate, other individuals may
also be recognized by the presiding officer.

(Code 1988, § 110.020; Code 1996, § 105.020;
Code 2005, § 2-54(n); Ord. No. 89-31, § 1,
8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-
1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No.
2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1,
5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002;
Ord. No. 2002-091, § 1, 7-30-2002; Ord. No.
2003-236, 9-22-2003; Ord. No. 2007-061, § 1,
6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007;
Ord. No. 2007-118, § 1, 11-13-2007; Ord. No.
2008-087, § 1, 9-8-2008)

Sec. 2-76. Decorum.

While the board is in session, the presiding
officer must preserve order and decorum. No
person shall either, by conversation or otherwise,
delay or interrupt the proceedings or the peace of
the board, nor disturb any member while speak-
ing or refuse to obey the orders of the board or its
presiding officer, except as otherwise provided in
this section. No person shall bring or display
signs or other props causing a distraction while
in the council chambers. Any person making
personal, impertinent, or slanderous remarks,

displays signs or props or who becomes boisterous while addressing the board, or who interferes with the order of business before the board, and who fails, upon request of the presiding officer, to cease such activity, shall be barred from further audience before the board, unless permission to continue is granted by a majority vote of the board. Upon instructions of the presiding officer, an individual may be removed for violation of the order and decorum of the meeting. A majority vote of the elected board members may allow the individual to return.

(Code 1988, § 110.020; Code 1996, § 105.020;
Code 2005, § 2-54(p); Ord. No. 89-31, § 1,
8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-
1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No.
2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1,
5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002;
Ord. No. 2002-091, § 1, 7-30-2002; Ord. No.
2003-236, 9-22-2003; Ord. No. 2007-061, § 1,
6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007;
Ord. No. 2007-118, § 1, 11-13-2007; Ord. No.
2008-087, § 1, 9-8-2008; Ord. No. 2023-0085, § 2,
8-8-2023)

Sec. 2-77. Method of voting.

All votes shall be by voice voting, roll call,
show of hands, or electronic voting device that
clearly indicates each member's individual vote
or a statement of abstention if not voting. The
minutes of the proceedings of the board shall
record the individual votes on all items voted
upon.

(Code 1988, § 110.020; Code 1996, § 105.020;
Code 2005, §§ 2-54(q), (z); Ord. No. 89-31, § 1,
8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-
1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No.
2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1,
5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002;
Ord. No. 2002-091, § 1, 7-30-2002; Ord. No.
2003-236, 9-22-2003; Ord. No. 2007-061, § 1,
6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007;
Ord. No. 2007-118, § 1, 11-13-2007; Ord. No.
2008-087, § 1, 9-8-2008; Ord. No. 2020-0080, § 2,
7-28-2020; Ord. No. 2022-0029, § 2, 5-10-2022)

Sec. 2-78. Procedure for debate during public hearings.

The following shall be the procedure during public hearings:

- (1) Public hearing opened.
- (2) Brief opening statement by the presiding officer, city administrator, explaining the item being discussed.
- (3) Staff reports will be brief and thorough.
- (4) Testimony or discussion by members of the public in support or opposition to the item, may be limited by the presiding officer when the discussion has become repetitive and any board may request the same to the presiding officer.
- (5) Written communications must be filed with the city clerk within the required timeframe.
- (6) Discussion by board members. The order of recognition of board members desiring to speak shall be determined by the presiding officer.
- (7) Brief closing statement, if desired, shall be by the presiding officer or city administrator.
- (8) Public hearing closed.
- (9) Motion and second is in order at this time (if required).
- (10) Vote (if required).

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(bb); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Sec. 2-79. Reserved.

Editor's note—Ord. No. 2022-0105, § 2, adopted Dec. 13, 2022, deleted § 2-79 entitled "Proposed ordinances, resolutions and other matters or subjects," which derived

from: Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(dd); Ord. No. 89-31, § 1, adopted Aug. 14, 1989; Ord. No. 97-013, § 1, art. I, adopted May 27, 1997; Ord. No. 97-034, § 1, adopted Sept. 22, 1997; Ord. No. 2001-112, § 1, adopted Sept. 10, 2001; Ord. No. 2002-045, § 1, adopted May 13, 2002; Ord. No. 2002-051, § 1, adopted May 13, 2002; Ord. No. 2002-091, § 1, adopted July 30, 2002; Ord. No. 2003-236, adopted Sept. 22, 2003; Ord. No. 2007-061, § 1, adopted June 11, 2007; Ord. No. 2007-095, § 1, adopted Oct. 8, 2007; Ord. No. 2007-118, § 1, adopted Nov. 13, 2007; and Ord. No. 2008-087, § 1, adopted Sept. 8, 2008.

Sec. 2-80. Applicability of Robert's Rules of Order.

The rules of parliamentary practice, comprised in Robert's Rules of Order, latest edition, shall govern the board where applicable, except where otherwise directed.

(Code 1988, § 110.020; Code 1996, § 105.020; Code 2005, § 2-54(cc); Ord. No. 89-31, § 1, 8-14-1989; Ord. No. 97-013, § 1, art. I, 5-27-1997; Ord. No. 97-034, § 1, 9-22-1997; Ord. No. 2001-112, § 1, 9-10-2001; Ord. No. 2002-045, § 1, 5-13-2002; Ord. No. 2002-051, § 1, 5-13-2002; Ord. No. 2002-091, § 1, 7-30-2002; Ord. No. 2003-236, 9-22-2003; Ord. No. 2007-061, § 1, 6-11-2007; Ord. No. 2007-095, § 1, 10-8-2007; Ord. No. 2007-118, § 1, 11-13-2007; Ord. No. 2008-087, § 1, 9-8-2008)

Secs. 2-81—2-105. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

DIVISION 1. GENERALLY

Sec. 2-106. Human resources manual.

That certain document, on file in the office of the city, being marked and designated as the City of Branson Human Resources Manual, as

***State law references**—Officers generally, RSMo 77.370 et seq.; appointive officers, RSMo 79.230; salaries of officers to be fixed by ordinance, RSMo 79.290; removal of officers from office, RSMo 79.240; filling vacancies in certain municipal offices, RSMo 79.280; officer's oath of office, RSMo 79.260; penalties for misdemeanor in office, RSMo 79.360; officers to be voters and residents, exceptions, RSMo 79.250; property qualifications of officers prohibited, RSMo 71.150.

adopted and amended from time to time by the board, is incorporated in this section by reference.

(Code 2005, § 2-304; Ord. No. 2009-098, § 1, 12-8-2009; Ord. No. 2012-0027, § 1, 2-14-2012)

Sec. 2-107. Departments and directors.

(a) At the head of each department there shall be a director who shall have managerial responsibility, supervision and control of the department, who reports to the city administrator, except those directors appointed or elected by the board. More than one department may be headed by the same individual.

(b) The following shall be the directors' titles: city attorney; city clerk; city engineer; communications director; economic development director; finance director; fire chief; information technology director; parks and recreation director; human resources director; planning and development director; police chief; public works director; utilities director.

(Code 2005, § 2-303; Ord. No. 2009-098, § 1, 12-8-2009; Ord. No. 2012-0027, § 1, 2-14-2012)

Sec. 2-108. Filling of vacancies of elective and appointed officers.

(a) If a vacancy occurs in any elective office, the mayor, or the person exercising the duties of the mayor, shall cause a special meeting of the board to convene where a successor to the vacant office shall be selected by appointment by the mayor with the advice and consent of a majority of the remaining members of the board. The successor shall serve until the next regular municipal election.

(b) If the vacancy is in the office of mayor, nominations of a successor may be made by any member of the board and the successor shall be selected with the consent of a majority of the members of the board. The board may adopt procedures to fill vacancies consistent with this section. The successor shall serve until the next regular municipal election.

(c) If a vacancy occurs in any office not elective, the mayor shall appoint a suitable person to discharge the duties of such office until the first

regular meeting of the board thereafter, at which time such vacancy shall be temporarily appointed until permanently filled.

(Code 1988, § 115.020; Code 1996, § 105.100; Code 2005, § 2-35)

Sec. 2-109. Removal of elective officers.

The mayor may, with the consent of a majority of all the members elected to the board, remove from office, for cause shown, any elective officer of the city, such officer being first given opportunity, together with his witnesses, to be heard before the board sitting as a board of impeachment. Any elective officer, including the mayor, may in like manner, for cause shown, be removed from office by a two-thirds vote of all members elected to the board, independently of the mayor's approval or recommendation.

(Code 1988, § 115.020; Code 1996, § 105.100; Code 2005, § 2-53)

Sec. 2-110. Local government employees retirement system.

(a) The city hereby elects to have covered by the state local government employees retirement system all its eligible employees with 1,500 or more hours of annual employment and to cover under benefit program L-6 such employees of the following classes:

- (1) Present and future general employees (neither policemen nor firemen as defined by RSMo 70.600).
- (2) Present and future firemen (as defined by RSMo 70.600).
- (3) Present and future policemen (as defined by RSMo 70.600).

(b) The city hereby elects that 100 percent of prior employment be considered for prior service credit in computing benefits and contributions to the system.

(c) The finance department is hereby authorized and directed to promptly remit the deductions and employer contributions required by RSMo 70.705 and 70.730 to the retirement system.

(Code 1988, § 100.040; Code 1996, § 100.030; Code 2005, § 2-302; Ord. No. 515, § 1, 12-12-1977; Ord. No. 2004-161, § 1, 12-13-2004)

Secs. 2-111—2-135. Reserved.**DIVISION 2. CITY ADMINISTRATOR****Sec. 2-136. Appointment; removal; powers and duties.**

(a) *Appointment.* The city administrator shall be appointed by the mayor and board for an indefinite term. He shall be at least 25 years of age, should have a master's degree in business or public administration or a related field, and shall be chosen solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of the office set forth in this section. Appointment of any city administrator shall be based solely upon qualifications, without regard to his political beliefs or affiliations. At the time of his appointment, he need not be a resident of the city, but during his tenure in office, the city administrator shall reside within 15 miles of the city limits and devote his full-time to the performance of the duties of his office.

(b) *Oath of office.* Before entering upon the duties of his office, the city administrator shall take and subscribe to an oath or affirmation before the city clerk, or someone authorized to administer oaths, that he possesses all the qualifications prescribed for his office by law, that he will support the Constitution of the United States and of the state, the provisions of all laws of the state and the ordinances of the city, and that he will faithfully demean himself while in office.

(c) *Bond.* The city administrator, before entering upon the duties of his office, shall file with the city a bond in the amount of \$50,000.00 approved by the board and conditioned upon faithful and honest performance of his duties, and the rendering of full and proper accounts to the city for funds and property that shall come into his possession or control. The cost of the bond shall be paid by the city; however, should the city administrator be covered by a blanket bond or insurance to the same extent, an individual bond shall not be required.

(d) *Removal from office.* The city administrator shall serve at the pleasure of the appointing authority. The mayor may, with the consent of a majority of all the members elected to the board, remove the city administrator at will. The city administrator may be so removed by a two-thirds vote of all members elected by the board, independently of the mayor's approval or recommendation. In the event of such a removal, the city administrator shall be given a minimum of six months' notice of such termination. At the board's discretion, the notice may consist of a combination of notice plus severance pay, provided, however, that if the city administrator shall be convicted of a felony, such notice shall not be required.

(e) *Powers and duties.* The city administrator shall be the chief executive officer to the mayor and the board and as such shall be the administrative officer of the city government. He may head one or more departments and shall be responsible to the mayor and the board for proper administration and management of the government business, officers and employees of the city. To that end, he shall have the power and shall be required to:

- (1) Appoint and, when necessary for the good of the service, suspend, remove or terminate the employment of any employee of the city except those employees appointed or elected by the board. However, when it is necessary to fill directors' vacancies, the city administrator shall submit names of individuals that he recommends for employment in such positions to the mayor and board for approval/disapproval. All recruitment, employment and termination practices of the city administrator shall be based on merit and qualification of the employees concerned.
- (2) Recommend, for adoption by the board, the human resource manual and pay/merit plan. Establish administrative rules, class/classifications and other procedures as deemed necessary.
- (3) Prepare the proposed budget annually and submit it to the board together with

- a message describing important features, the budget to be supported by appropriate schedules and analyses.
- (4) Keep the board advised of the financial condition and future needs of the city, and make such recommendations as he may deem desirable.
- (5) Prescribe such rules and regulations as are necessary or expedient for the conduct of administrative departments or agencies subject to his authority, and he shall have the power to revoke, suspend, or amend any rule or regulation of the administrative service prescribed by himself or any subordinate.
- (6) Investigate, examine or inquire into the affairs or operation of any department, and, when so authorized by the board, he shall have power to employ consultants and professional counsel to aid in such investigations, examinations or inquiries.
- (7) Coordinate and control the activities of all departments, and shall have the power to alter, amend and set aside orders, rules and policies issued and set by directors.
- (8) Meet with standing committees appointed by the mayor on matters concerning general and special administrative problems, who shall consult with and render advice to the city administrator on such matters.
- (9) Attend all meetings of the board and have the right to appear before and address the board at any meeting.
- (10) Have responsibility for all real and personal property of the city. He shall have responsibility for all inventories of such property, and for the upkeep of all such property.
- (11) Supervise the preparation of all bid specifications for services and equipment.
- (12) Perform such other duties as may be required by the board, not inconsistent with the state statutes, laws or ordinances.
- (13) Account to the mayor and board for any actions taken when requested to do so, and at all times shall be subject to supervision, control, and direction of the mayor and board.
- (f) *Dealings with employees by board or mayor.* Neither the board nor any of its members nor the mayor shall direct or request the appointment of any person to or his removal from office, except those positions appointed or elected by the board and except as authorized in the human resources manual. Neither the board nor any of the members nor the mayor shall give orders to any city employee except the city administrator, either publicly or privately.
- (Code 1988, §§ 115.050, 240.060; Code 1996, § 115.030; Code 2005, § 2-81; Ord. No. 431, §§ 2—8, 3-15-1973; Ord. No. 574, §§ 1—3, 9-22-1980; Ord. No. 637, § 1, 11-28-1983; Ord. No. 88-53, § 1, 5-23-1988; Ord. No. 99-665, § 8, 4-12-1999; Ord. No. 99-959, § 22, 10-11-1999; Ord. No. 2003-142, § 1, 7-28-2003; Ord. No. 2008-062, § 1, 6-23-2008; Ord. No. 2009-098, § 1, 12-8-2009; Ord. No. 2012-0027, § 1, 2-14-2012; Ord. No. 2020-0079, § 2, 7-28-2020; Ord. No. 2021-0042, § 2, 5-11-2021; Ord. No. 2024-0040, § 2, 4-23-2024)

Secs. 2-137—2-155. Reserved.**DIVISION 3. CITY ATTORNEY****Sec. 2-156. Qualifications; powers and duties.**

(a) The city attorney shall be a qualified and licensed attorney to practice law in the state.

(b) Appointment, term and removal. The mayor, with the consent and approval of the majority of the members of the board, shall appoint a city attorney, who shall hold office at the pleasure of the board. Such person or persons shall serve an indefinite term. The mayor may, with the consent of a majority of the members elected to the board, remove the city attorney at will. The city attorney may be so removed by a two-thirds vote of all members elected to the board, independently of the mayor's approval or recommendation.

(c) The powers and duties of the city attorney are as follows:

- (1) The city attorney shall draft and prepare for approval of the board all ordinances and resolutions of the city as directed by the board.
- (2) The city attorney shall attend all meetings of the board.
- (3) The city attorney shall represent the city in all matters before the municipal court, and shall attend all hearings held before the municipal court.
- (4) The city attorney shall advise and counsel with the mayor, board and city administrator on all legal matters of the city business.
- (5) The city attorney shall draw and prepare all contracts and leases of which the city is a party.
- (6) The city attorney shall act for and on behalf of the city in enforcement of all duly adopted ordinances and resolutions.
- (7) The city attorney shall defend before the municipal judge or mayor all actions brought against any officer, agent or servant of the city which may arise from his official acts.
- (8) The city attorney shall perform all other normal and routine business of the city which would generally fall within the province and category of legal matters.

(Code 1988, § 115.060; Code 1996, § 115.040; Code 2005, § 2-101; Ord. No. 489, §§ 1—6, 4-11-1977; Ord. No. 535, § 1, 1-22-1979; Ord. No. 684, §§ 1, 2, 8-12-1985; Ord. No. 87-22, § 13, 5-11-1987; Ord. No. 99-665, § 8, 4-12-1999; Ord. No. 2008-061, § 1, 6-23-2008)

Secs. 2-157—2-180. Reserved.

DIVISION 4. CITY CLERK*

Sec. 2-181. Appointment, duties, term and compensation; deputy city clerk.

(a) *Appointment.* The board shall elect a clerk for such board, to be known as "the city clerk," whose duties and term of office shall be fixed by ordinance, and shall serve at the pleasure of the board.

(b) *Duties.* The duties of the city clerk are as follows:

- (1) The city clerk shall keep a true and correct journal of the proceedings of the board, and shall be the general accountant for the city. General accountant shall refer to the maintaining of the bank signature cards for the city. The journal shall include all information required by state law and the names and topics of interested members of the community who speak during public comment. There shall not be any record of comments or discussion by the mayor, board, the public or city staff under all regularly and specially called meetings unless the mayor, alderman or city staff member requests their statement(s) be read into the record and there will be a synopsis of the mayor and board reports.
- (2) The city clerk shall attend all meetings of the board.
- (3) The city clerk shall safely and properly keep all the records and papers belonging to the city which may be entrusted to his care, and shall not permit the same to be removed from his office.
- (4) The city clerk shall be the custodian of the corporate seal and shall affix the impression to all commissions or other official documents required to be issued and countersign the commissions or documents.

***State law references**—Election, duties of city clerk, RSMo 79.320; removal of officers, RSMo 79.240; qualifications, RSMo 79.250; oath, bond, RSMo 79.260; fixing salaries, RSMo 79.270; filling vacancies, RSMo 79.280.

- (5) The city clerk shall attest to and seal all ordinances, resolutions or other official acts of the board.
- (6) The city clerk shall attest all other official acts which may be required of him by law or ordinance.
- (7) 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.
- (8) The city clerk shall at all times be subject to the direction of the board, shall perform such other duties deemed by the board to be in the best interest of the city and may be subject to direction by the city administrator.
- (9) The city clerk shall be the election authority for the city and shall perform all duties required.
- (10) The city clerk shall be the custodian of city records pursuant to RSMo ch. 610.

(c) *Term; compensation.* The term of the city clerk shall be continuous from the date of election by the board until removed from office for cause, including but not limited to, malfeasance, neglect or incompetence by the city clerk. The mayor may, with the consent of a majority of the members elected to the board, remove the city clerk at will. The city clerk may be so removed by a two-thirds vote of all members elected to the board, independently of the mayor's approval or recommendation. Compensation shall be within the annual budget as adopted by ordinance.

(d) *Deputy city clerk.* In case of absence of the city clerk, a deputy city clerk, as appointed by the city administrator, shall have and exercise all the powers and duties of the city clerk. The position of deputy city clerk shall be deemed an unclassified employee under the provisions of the city's human resources manual.

(Code 2005, § 2-121; Ord. No. 2003-282, 12-8-2003; Ord. No. 2007-062, § 1, 6-11-2007; Ord.

No. 2008-060, § 1, 6-23-2008; Ord. No. 2008-109, § 1, 11-3-2008; Ord. No. 2012-0027, § 1, 2-14-2012; Ord. No. 2023-0085, § 2, 8-8-2023)

State law references—Authority for appointment of city clerk by mayor subject to consent and approval of board, RSMo 79.230; duties of city clerk, RSMo 79.320; powers and duties of officers to be prescribed by ordinance, RSMo 79.290.

Secs. 2-182—2-189. Reserved.

DIVISION 5. CONFLICTS OF INTEREST

Sec. 2-190. Declaration of policy.

(a) The proper operation of municipal government requires that officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, all officials, employees, members of commissions, advisory boards and committees shall follow all conflict of interest laws.

(b) The mayor or any member of the board of aldermen who has a substantial personal or private interest, as defined by state law, in any bill shall disclose on the records of the board of aldermen the nature of his interest and shall disqualify himself from matters relating to this interest.

(Code 1988, §§ 112.010, 112.020; Code 1996, §§ 110.010, 110-020; Code 2005, §§ 2-141, 2-142; Ord. No. 91-40, §§ 1, 2, 8-12-1991; Ord. No. 93-76, §§ 1, 2, 8-23-1993; Ord. No. 94-84, §§ 1, 2, 7-25-1994; Ord. No. 95-102, §§ 1, 2, 9-11-1995; Ord. No. 97-021, §§ 1, 2, 7-28-1997; Ord. No. 99-794, §§ 1, 2, 5-24-1999)

Sec. 2-191. Certain business transactions restricted.

(a) *Generally.* No officer, employee or citizen member of a commission or advisory board of the city shall transact any business in his official capacity with any business entity of which he is an officer, agent or member or in which he owns a substantial interest; nor shall he make any personal investments in any enterprise which will create a substantial conflict between his

private interest and the public interest; nor shall he or any firm or business entity of which he is an officer, agent or member, or the owner of substantial interest, sell any goods or services to any business entity which is directly licensed or regulated by the agency or department in which the officer or employee serves.

(b) *Officers and employees not to deal with certain entities.* No officer or employee of this city shall enter into any private business transaction with any person or entity that has a matter pending or to be pending soon which the officer or employee is or will be called upon to render a decision or cast judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, he shall be disqualified from rendering any decision or passing any judgment upon such matter.
 (Code 1988, § 110.090(D)—(F); Code 1996, §§ 160.040—160.060; Code 2005, § 2-454; Ord. No. 650, §§ 4—6, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 2001-144, § 1, 11-3-2001; Ord. No. 2012-0027, § 1, 2-14-2012)

Secs. 2-192—2-200. Reserved.

ARTICLE IV. BOARDS, COMMISSIONS, COMMITTEES AND COUNCILS

DIVISION 1. GENERALLY

Sec. 2-201. Removal of members; attendance at meetings.

(a) The mayor may, by and with the consent of the board, remove any member of any duly formed board, commission, authority or committee for misconduct or neglect of duty.

(b) A member of a board, commission, authority or committee shall be deemed to be neglectful of his duty when, without the consent of the president or chairman of his board, commission, authority or committee, he fails to appear at scheduled meetings of the board, commission, authority or committee for three consecutive meetings.

(Code 1988, § 110.070; Code 1996, § 105.080; Code 2005, § 2-171; Ord. No. 641, §§ 1, 2, 1-23-1984)

Secs. 2-202—2-225. Reserved.

DIVISION 2. TAX INCREMENT FINANCING COMMISSION

Sec. 2-226. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Act means the Real Property Tax Increment Allocation Redevelopment Act, RSMo 99.800—99.865.

Allowable costs means those costs that are approved by the city as being eligible, reasonable, necessary, and allocable to the plan, permitted by the appropriate cost principles, and approved by the city in the plan.

Architectural or engineering (A/E) services means consultation, investigations, reports or services for design-type projects within the scope of the practice of architecture or professional engineering.

Assistance means transfer of money, property, services, or anything of value to accomplish the public purpose of development of the project in accordance with the plan, and may be in the form of either a grant or a cooperative agreement and will specify: budget and project periods, the city's share of approved project costs, a description of the work to be accomplished, and any special conditions.

Blighted area means an area which, by reason of the predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or menace to the public health, safety, morals, or welfare in its present condition and use.

Bridges means and includes bridges connecting a municipality with another municipality either within or without the state, with an incorporated area of the state, or with another state or an unincorporated area thereof.

Building means the erection, acquisition, alteration, remodeling, improvement or extension of the project.

Conservation area means any improved area within the boundaries of the redevelopment area located within the territorial limits of a municipality in which 50 percent or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this definition for projects approved on or after December 23, 1997.

Construction means any one or more of the following: preliminary planning to determine the feasibility of the project, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alter-

ation, remodeling, improvement, or extension of the project, or the inspection or supervision of any of the foregoing items. The term "construction" also includes remedial actions in response to requirements of the city.

Cost analysis means the review and evaluation of each element of subagreement costs to determine reasonableness and allocability.

Issuing ordinance means the ordinance adopted by the board authorizing the execution, delivery and performance of the documents necessary to carry out the plan and authorizing the issuance of obligations.

Obligation means bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the city to carry out a redevelopment project or to refund outstanding obligations.

Payment in lieu of taxes means those estimated revenues from the real property in the area selected for a redevelopment project which revenues according to the redevelopment project or plan are to be used for a public use, which taxing districts would have received had a municipality not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of the tax increment allocation financing during the time the current equalized value of real property in the project area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until designation is terminated pursuant to RSMo 99.850(2).

Plan means the program of the city adopted in the plan ordinance as the comprehensive program of the city for redevelopment intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment project area as a redevelopment area, and to thereby enhance the tax bases of the taxing districts which extend into the project redevelopment area. Each redevelopment plan shall conform to the requirements of RSMo 99.810.

Plan ordinance means the ordinance of the city, adopted after the public hearing, the vote and recommendation by the tax increment financing

commission, adopting the plan by the board designating the redevelopment area and the infrastructure projects to be undertaken under the plan to overcome the situations found to exist in the redevelopment area, and setting forth the findings required by RSMo 99.810.

Project means the activities or tasks the city identifies in the plan as the scope of work for which approval is given including any development projects in furtherance of the objectives of the plan.

Project costs means the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to the plan and the project or any other redevelopment projects. Such costs include, but are not limited to, the following:

- (1) Costs of studies, surveys, plans, and specifications;
- (2) Professional service costs, including but not limited to architectural, engineering, legal, marketing, financial, planning or special services;
- (3) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- (4) Costs of rehabilitation, construction, or repair or remodeling of existing buildings and fixtures;
- (5) Initial costs for a redevelopment area;
- (6) Costs of construction of public works or improvement;
- (7) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations, and which may include payment of interest on any obligations issued in accordance with the plan accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not more than 18 months thereafter, and including reasonable reserves related thereto;

- (8) All or a portion of a taxing district's capital costs resulting from the redevelopment plan and project, to the extent the city by written agreement accepts and approves such costs;
- (9) Relocation costs to the extent that the city determines the relocation costs shall be paid or are required to be paid by federal or state law; and
- (10) Payments in lieu of taxes.

Project period means the length of time the city approves in the plan for completion of all project work. It may be composed of more than one budget period or periods.

Project schedule means a timetable specifying the dates of key project events including public notices of proposed procurement actions, sub-agreement awards, issuance of notice to proceed with construction, key milestones in the building schedule, completion of construction, initiation of operation and certification of the project.

Public mass transportation system means a transportation system owned and operated by an interstate transportation authority, a municipality, a city transit authority, or a city utilities board, employing motor buses, rails or any other means of conveyance of persons, mainly providing local transportation service within an interstate transportation district or municipality.

Real estate means land, including land improvements, and structures and appurtenances, excluding movable machinery and equipment.

Services means a contractor's labor, time, or efforts which do not involve the delivery of a specific end item, other than documents (e.g., reports, design drawing, specifications). The term "services" does not include employment agreements or collective bargaining agreements.

Subagreement means the written agreement between the city and another party, including another public agency, and any tier of agreements there under for the furnishing of services, supplies, or equipment necessary to complete the project which was approved by the city, including contracts and subcontracts for personal and professional services, agreements with consultants

and purchase orders, but excluding employment agreements subject to state or local personnel systems.

Supplies means all property, including equipment, materials printing, insurance, and leases of real property, but excluding land or a permanent interest in land.

Tax increment financing commission (TIFC) means the tax increment financing commission of the city established in accordance with this division and its successors in interest, exercising the powers granted in this division and such additional powers as the board may from time to time by subsequent ordinance specify.

Taxing districts means any political subdivision of the state having the power to levy and collect taxes.

Transportation purposes means financial support of a public mass transportation system; the construction, reconstruction, repair and maintenance of streets, roads and bridges within a municipality; the construction, reconstruction, repair and maintenance of airports owned and operated by municipalities; the acquisition of lands and rights-of-way for streets, roads, bridges and airports; and planning and feasibility studies for streets, roads, bridges and airports.

Vacant real estate means any parcel or combination of parcels of real estate not used for industrial, commercial, or residential buildings. (Code 1988, § 137.010; Code 1996, § 140.010; Code 2005, § 2-191; Ord. No. 92-14, § 1, 2-10-1992; Ord. No. 2002-143, § 1, 11-25-2002)

State law reference—Similar provisions, RSMo 99.805(1), (3), (5), (10), (16), (18).

Sec. 2-227. Tax increment financing commission established; membership.

(a) The board hereby finds that it is necessary and desirable to create a tax increment financing commission (TIFC) for the city, to consist of 11 members. The membership of the TIFC shall be divided into two classifications. Six of the members of the TIFC shall be Class I members which are to be appointed by the mayor with the approval of a majority of the board. Of the Class I members to be originally appointed, two shall be

designated at the time of their appointment to serve for a term of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of their original appointment. Following the original appointments, the Class I members shall be appointed for terms of four years.

(b) Five of the members of the TIFC shall be Class II members. Two of the Class II members shall be appointed by the school boards of the school districts which are included within the proposed redevelopment area. These two members shall be appointed in any manner agreed upon by the affected school districts. One Class II member shall be appointed to represent all other districts levying ad valorem taxes within the area selected as the proposed redevelopment area. This member shall be appointed in any manner agreed upon by the affected districts, excluding representatives of the board. Two Class II members shall be appointed to represent the county with the consent of the majority of the governing body of the county. This member shall be appointed in any manner agreed upon by the affected districts. If any of the Class II members are not appointed as provided in this section within 30 days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the Class II members which are appointed, if any, with the Class I members appointed, shall exercise all powers of the TIFC. The term of office of the Class II members shall coincide with the length of time a redevelopment project or redevelopment area is considered for approval by the TIFC and shall terminate upon the final approval by the board of the redevelopment project, redevelopment plan and designation of the redevelopment area. Thereafter, the only members of the TIFC shall consist of Class I members, unless the redevelopment project, redevelopment plan or designated redevelopment area is changed or amended, in which event Class II members shall be appointed to the Class II membership as provided in this section, prior to consideration of such change or amendment.

(Code 1988, § 137.020; Code 1996, § 140.020; Code 2005, § 2-192; Ord. No. 92-14, § 2, 2-10-1992; Ord. No. 2002-143, § 1, 11-25-2002)

Sec. 2-228. Powers and duties.

The TIFC shall exercise such of the powers contained in the Act as shall be designated from time to time by the board except final approval of plans, projects and designation of redevelopment areas, which powers cannot be delegated by the board. The TIFC shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. The TIFC shall receive from interested persons or affected taxing districts written objections to and will orally hear any issue covered by the notice of hearing. The TIFC commission shall give notice of hearing in the manner specified in RSMo 99.825 and 99.830. The TIFC shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas and amendments thereto within 30 days following the completion of the public hearing on any such plan, project or designation and shall make recommendations to the board within 90 days of the date of the public hearing concerning the adoption of, or amendment to, redevelopment plans and redevelopment projects and the designation of redevelopment areas.

(Code 1988, § 137.030; Code 1996, § 140.030; Code 2005, § 2-193; Ord. No. 92-14, § 3, 2-10-1992)

Sec. 2-229. Bidding policies and procedures.

The following shall be the bidding policies and procedures of the TIFC:

- (1) *Policies.*
 - a. The TIFC shall adhere to this proposal process when soliciting redevelopers for redevelopment plans or any project or conveyance therein.
 - b. The TIFC shall provide reasonable opportunity for the submission of proposals.
 - c. The proposal process shall be conducted fairly and in accordance with the requirements of RSMo 99.800 et seq.

- d. The TIFC shall consider only the submissions of responsible redevelopers ("proposers").
- e. No conveyance, lease, mortgage or other disposition of land or agreement relating to the redevelopment of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the TIFC's request.

(2) *Procedures.*

- a. When the TIFC enters into a funding agreement to consider a proposed redevelopment plan, it will publish and post a notice requesting proposals from interested proposers to undertake the redevelopment of the proposed redevelopment area.
 - 1. The TIFC may, but need not, request or accept proposals for less than all of the redevelopment area.
 - 2. Where a proposed redevelopment plan is sponsored by a public agency with an existing request for proposals policy and such agency has solicited proposals in compliance with the policy, the TIFC may elect to adopt the policy and determination of that agency for the purpose of that proposed redevelopment plan.
 - 3. The TIFC may, but need not, request qualifications prior to requesting proposals.
 - (i) Submitted qualifications may be used as the basis for requesting proposals from specific proposers.
 - (ii) Request for qualifications will follow the same procedures as requests for proposals.
 - 4. A request for proposals shall solicit alternative proposals to that submitted by an applicant

for redevelopment or any proposed plans originated and prepared by the TIFC. The originating applicant, as evidenced by an executed funding agreement, shall not be required to respond to the request for proposals to be considered an applicant for redeveloper.

- b. Notice of requests for proposals will be published in the newspaper publishing issues no less than five days each week. The notice shall contain:
 - 1. A general description of the redevelopment area; and
 - 2. A general statement of the nature of the development sought to be built.
- c. Proposals submitted in response to such request are due to the TIFC as of the date specified in the notice.
 - 1. All proposals must conform to the requirements and any specific criteria as provided in the notice of request for proposals. Incomplete or nonconforming applications will not be considered.
 - 2. All proposals must be submitted with the appropriate fee, as determined from time to time by the TIFC.
- d. The TIFC shall consider all complete proposals submitted in the established timeframe.
 - 1. The TIFC may instruct its staff to review the proposals and prepare a summary of the review for TIFC consideration.
 - 2. The submission of a proposal shall not create any right on the part of the proposer, but shall be considered an offer submitted to the TIFC.

- e. The TIFC shall consider proposals at a regularly scheduled meeting. The TIFC shall notify proposers of the time and date of the meeting at which they will be considered.
- f. The TIFC reserves the right to reject all proposals and publish any additional requests for proposals as may be necessary.
- g. A successful proposer will be required to enter into an agreement with the city regarding development of the redevelopment area and plan.

(Code 2005, § 2-194; Ord. No. 2001-119, § 1, 9-10-2001)

Secs. 2-230—2-251. Reserved.

DIVISION 3. ADVISORY COUNCIL ON DISABILITIES

Sec. 2-252. Council established; membership.

(a) *Composition; term.* There is hereby established the city advisory council on disabilities, to be composed of seven members who shall be residents of Stone or Taney County to be appointed by the mayor, with the approval of the board, one of whom shall be elected annually by the members of the advisory council as the chairperson. All members shall be appointed for terms of three years. Annually, the mayor shall appoint one member of the board to serve as a voting member.

(b) *Vacancies.* Vacancies on the advisory council on disabilities occasioned by removal, resignation, or otherwise shall be reported to the mayor, and their replacement shall be appointed by the mayor, with the approval of the board, to fulfill any unexpired term.

(c) *Compensation.* All members shall serve without compensation.

(d) *Meetings and rules of procedure.* Meetings of the council shall be as called by the chairperson. The council shall adopt bylaws and rules and

regulations for its orderly conduct of meetings. All meetings shall be in accordance with RSMo ch. 610.

(e) *Staff.* The city administrator may appoint city staff as is necessary and reasonable to assist the council with its work.
(Code 1996, § 155.010; Code 2005, § 2-231; Ord. No. 95-59, § 1, 5-22-1995; Ord. No. 2004-014, 1-26-2004)

Sec. 2-253. Functions.

The advisory council on disabilities may make recommendations, and advise and confer with the mayor and city administrator:

- (1) In identifying and responding to the needs of citizens with disabilities as they relate to the city's programs and activities and properties.
- (2) In making recommendations to the mayor and the city administrator concerning city activities, programs, projects and properties relating to citizens with disabilities, but not as relating to private property or private activities within the city.
- (3) In providing assistance to the city administrator for the development and implementation of plans for city compliance with local, state and federal legislation affecting citizens with disabilities.
- (4) In developing and implementing new and cost-effective techniques to improve coordination of community and governmental services for citizens with disabilities.
- (5) In developing and maintaining an information and referral system to serve citizens with disabilities.

(Code 1996, § 155.020; Code 2005, § 2-232; Ord. No. 95-59, § 2, 5-22-1995; Ord. No. 2004-014, 1-12-2004)

Secs. 2-254—2-283. Reserved.

ARTICLE V. FINANCES

DIVISION 1. GENERALLY

Sec. 2-284. City fee schedule adopted.

The city has developed and adopts by reference, as amended from time to time, the city fee schedule set forth in appendix A.

Sec. 2-285. Charge for returned checks.

The officers of the city shall charge a fee as provided in the city fee schedule as a service and administrative charge, in addition to the fee charged by any financial institution, for any check that is returned insufficient or no account, and which is later redeemed by the customer.
 (Code 1988, § 635.130; Code 1996, § 700.210(D); Code 2005, § 2-427; Ord. No. 345, § 12, 6-14-1965; Ord. No. 590, § 3, 7-13-1981; Ord. No. 98-017, § 2, 2-23-1998; Ord. No. 2001-118, 9-10-2001)

Sec. 2-286. Finance director.

The finance director shall be head of the finance department and serve as city treasurer. The finance director is responsible for internal controls, collections and distribution of all monies.
 (Code 2005, § 2-410; Ord. No. 2008-109, § 2, 11-3-2008)

State law reference—Similar provisions, RSMo 79.300.

Sec. 2-287. Liability insurance required for written business agreements with the city.

Unless otherwise specifically established by the purchasing agent or risk manager, all written agreements, leases, franchises, and other contracts between any vendor and the city shall include a requirement to which the vendor shall comply, for the following required minimum liability insurance amounts; provided, however, if state law in a specific instance requires a higher minimum, then state law shall apply and prevail:

- (1) *General liability.* The vendor shall maintain commercial general liability insurance. The amounts of insurance

shall not be less than \$1,000,000.00 in coverage for bodily injury and property damage in combined single limits per injury or damage occurrence, with a general aggregate coverage of \$2,000,000.00 and naming the city as additional insured.

- (2) *Automobile liability insurance.* The vendor shall maintain automobile liability insurance. The amounts of insurance shall not be less than \$1,000,000.00 in coverage for automobile bodily injury and property damage liability insurance per occurrence. This insurance shall be maintained to cover all owned, leased and hired automobiles and naming the city as additional insured.
- (3) *Workers' compensation insurance.* The vendor shall maintain workers' compensation insurance having limits of not less than \$1,000,000.00 and including occupational disease provisions for all employees of the service providers and sub-service providers.
- (4) *[Additional requirements.]* All insurance coverage must be with a firm or firms licensed to do business in the state. Additional coverage amounts may be required for certain projects that provide services or products that, as determined by the purchasing agent or risk manager, are of a higher potential risk.

(Ord. No. 2018-0038, § 2, 4-10-2018; Ord. No. 2019-0023, § 2, 2-26-2019)

Editor's note—Ord. No. 2018-0038, § 2, adopted Apr. 10, 2018, changed the title of § 2-287 from "Liability insurance required for contracts with city" to read as herein set out.

Sec. 2-288. Compensation for water, sewer or other property damage.

(a) *City water or sewer property damage.* The provision of this section shall apply to claims where a property owner incurs property damage resulting from a break in a water line occurring on the city's side of the water meter or from a back-up of a city sewer main. The city administrator is authorized to compensate property owners for claims outlined as follows:

- (1) Claims shall apply for situations in which the city's liability insurance carrier denies coverage.

- (2) The maximum claim, upon submission of receipts to the city, shall be under \$15,000.00 per a non-insured property owner or up to the same amount towards the deductible for an insured property owner. Submission of receipts shall be within six months from the date the damage occurred. At the request of the property owner staff may bring forward for the board's consideration, claims exceeding these limits.
 - (3) Compensation shall be issued after a property owner executes the city's hold harmless agreement.
 - (4) One claim per property owner will be allowed, even in the case of separate occurrences or on separate pieces of property.
 - (5) Property owner cooperated fully with the city's insurance carrier and took all reasonable steps to mitigate damages.
- (b) *Other property damage.* The provisions of this subsection shall apply to claims for property damage or damage to personal property other than those covered in subsection (a) of this section. The city administrator is authorized to compensate claimants under this subsection as follows:
- (1) Upon submission of receipts to the city, the maximum claim shall be up to the city's insurance deductible or \$15,000.00, whichever is less.
 - (2) Compensation shall be issued after a claimant executes the city's hold harmless agreement.
- (Ord. No. 2013-0052, § 1, 4-23-2013)

Secs. 2-289—2-299. Reserved.

DIVISION 2. BUDGET AND FINANCIAL CONTROL

Subdivision I. In General

Sec. 2-300. Purpose.

The purpose of this division is to provide for a system of financial administration, accounting,

fiscal and budgetary control which conforms to generally accepted accounting principles (GAAP). (Code 1988, § 135.050; Code 1996, § 135.050(A); Code 2005, § 2-411; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-301. Fiscal year.

The fiscal year shall begin on January 1 and shall end on December 31. (Code 1988, § 135.050; Code 1996, § 135.050(B); Code 2005, § 2-412; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999; Ord. No. 2009-060, § 1, 8-25-2009)

Sec. 2-302. Adoption of budget.

An annual budget will be adopted by the mayor and board prior to the first day of the fiscal year. However, if for good and sufficient reasons the budget cannot be adopted by the first day of the fiscal year, a resolution authorizing the continuation of necessary and essential expenditures to operate the city shall be adopted prior to the beginning of the fiscal year. The proposed budget shall be prepared by the city administrator working with the budget and finance committee of the board and transmitted to members of the board for its review before the required date of adoption. The budget as adopted shall be a balanced budget with anticipated revenues (including appropriated unencumbered surplus) equal to appropriated expenditures. All funds within the budget shall also be balanced. (Code 1988, § 135.050; Code 1996, § 135.050(C); Code 2005, § 2-413; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-303. Expenditure of funds.

No expenditure in any fund shall be legal or proper unless appropriations adequate to meet that expenditure have been made in the budget. Purchases shall be made in the manner outlined under division 3 of this article.

(Code 1988, § 135.050; Code 1996, § 135.050(D); Code 2005, § 2-414; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-304. Budget to be a public record.

At the time the proposed budget is transmitted to the mayor and board by the city administrator, a copy of the proposed budget shall be made available for public inspection.

(Code 1988, § 135.050; Code 1996, § 135.050(E); Code 2005, § 2-415; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-305. Public hearing on proposed budget.

No earlier than seven days after the proposed budget is transmitted to members of the board and no later than the time that the budget is adopted by them, a public hearing shall be held to give the public the opportunity to comment upon the proposed budget. Notice of such public hearing shall be given in the newspaper in advance of the hearing date.

(Code 1988, § 135.050; Code 1996, § 135.050(F); Code 2005, § 2-416; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-306. Final adoption of budget.

The adoption of the budget shall be accomplished by the approval of a budget ordinance which specifies the anticipated revenues by appropriate categories and the appropriated expenditures for each department and each nondepartmental expense and for each fund covered by the budget. Amendments to the budget shall be approved by ordinance.

(Code 1988, § 135.050; Code 1996, § 135.050(G); Code 2005, § 2-417; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-307. Budget modification.

(a) Any increase in appropriation within a budgeted fund shall require the approval of the board in the form of amendment to the budget ordinance.

(b) The transfer of appropriations among departments within a fund shall only require the approval of the city administrator.

(Code 1988, § 135.050; Code 1996, § 135.050(H); Code 2005, § 2-418; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-308. Fund transfer from sinking fund or debt retirement fund.

No appropriation transfer shall be made from a sinking fund or debt retirement fund until all the legal obligations and requirements of such fund have been satisfied.

(Code 1988, § 135.050; Code 1996, § 135.050(I); Code 2005, § 2-419; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-309. Unencumbered or unexpended fund balances.

All appropriations which are not obligated, encumbered or expended at the end of the fiscal year shall lapse and shall become a part of the unencumbered fund balance which may be appropriated for the next fiscal year.

(Code 1988, § 135.050; Code 1996, § 135.050(J); Code 2005, § 2-420; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-310. Self-balancing accounts.

A complete self-balancing group of accounts shall be established and maintained for each fund used. This group of accounts shall include all general ledger accounts and subsidiary records necessary to reflect compliance with legal provisions and to set forth the financial position and the results of financial operations of the funds.

(Code 1988, § 135.050; Code 1996, § 135.050(K); Code 2005, § 2-421; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-311. Basis of accounting.

To the extent possible, the modified accrual basis of accounting shall be used so that expenditures, other than accrued interest on long-term debt, are recorded at the time liabilities are incurred and revenues are recorded when cash is received, except for material or available revenues which shall be accrued to reflect properly the taxes levied and the revenues earned. All receipts and disbursements shall be posted

promptly and at least on a monthly basis. To the extent possible, all interfund transfers shall be cleared by the end of the fiscal year.

(Code 1988, § 135.050; Code 1996, § 135.050(L); Code 2005, § 2-422; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-312. Financial reporting.

(a) Semi-annually each year, financial statements and reports showing a full and detailed account of the receipts and expenditures and indebtedness of the city shall be prepared for the half year ending with the last day of the month immediately preceding the date of such report, which account and statement shall be published in the newspaper, and presented to the mayor and board.

(b) Not later than three months after the close of the fiscal year, a financial report covering all funds and financial operations shall be prepared and published.

(Code 1988, § 135.050; Code 1996, § 135.050(M); Code 2005, § 2-423; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-313. Annual independent audit.

All the funds, accounts and financial transactions of the city shall be subjected to an annual audit by an independent certified public accountant who is to be selected by the mayor and board. The audit shall be conducted in accordance with generally accepted auditing standards (GAAS) promulgated by the American Institute of Certified Public Accountants (AICPA). (Code 1988, § 135.050; Code 1996, § 135.050(N); Code 2005, § 2-424; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-314. Implementation responsibility.

The responsibility for the proper execution of the provisions of this division shall be with the city administrator except where the responsibility is explicitly given to the mayor and board.

(Code 1988, § 135.050; Code 1996, § 135.050(O); Code 2005, § 2-425; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999)

Sec. 2-315. Unreserved fund.

An unreserved fund for the city is hereby established. This fund shall be established and composed of unobligated, unexpended fund balances of operating expenditures for the current adopted budget as follows:

- (1) The general fund shall be equal to 20 percent.
- (2) The water and sewer fund shall be equal to 20 percent.
- (3) The parks and recreation fund shall be equal to ten percent.
- (4) The public safety fund shall be equal to 20 percent.

(Code 1988, § 135.050; Code 1996, § 135.050(P); Code 2005, § 2-426; Ord. No. 716, §§ 1—15, 10-13-1986; Ord. No. 94-119, § 1, 10-24-1994; Ord. No. 99-665, § 2, 4-12-1999; Ord. No. 2009-060, § 1, 8-25-2009; Ord. No. 2013-0177, § 1, 11-26-2013; Ord. No. 2019-0031, § 2, 3-12-2019)

Sec. 2-316. Recreation fund and capital budget.

(a) *Generally.* After receiving recommendations from the city administrator, the board shall annually, during the budget process, determine and approve the funding sources for the recreation fund. Funding levels and sources will be dependent upon operating and capital expenditure requirements as presented to the board by the city administrator and as may be recommended by the advisory park board.

(b) *Undesignated funds.* Any undesignated fund balances available in the recreation fund at year's end may be transferred to undesignated funds available in the general fund if directed by the board.

(c) *Review of recreation fund capital budget.* The city administrator shall present, annually, the recreation fund capital budget to the advisory park board. Before developing the city's proposed capital budget, the city administrator shall meet with the advisory park board to receive recommendations on recreation fund capital projects. The advisory park board shall review and make a recommendation to the city administrator and

the board of aldermen on the administration's proposed recreation fund capital budget prior to the adoption of the annual budget.

(Code 1988, §§ 130.030, 130.050; Code 1996, §§ 130.030, 130.050; Code 2005, §§ 62-4, 62-42; Ord. No. 87-8, § 7, 3-9-1987; Ord. No. 90-40, § 1, 9-24-1990; Ord. No. 99-665, § 1, 4-12-1999)

State law references—Annual report from park board required, RSMo 90.560; custody of donations of money, property, RSMo 90.570.

Secs. 2-317—2-329. Reserved.

Subdivision II. Water and Sewer Service Budget Procedures

Sec. 2-330. Notice of meeting to fix rates.

The board shall meet annually prior to fixing the schedule of water and service rates and system connection charges for the ensuing fiscal year to review the expenses of operating the water and sewer systems, including meeting debt service and reserve requirements, for the ensuing year. The rates and charges shall be established in such details as provided by the law, specifically the ordinances of the city. A notice of public hearing shall be given at least 30 days in advance of the public hearing regarding the establishment of the rates as required in this article and prior to adoption of the city's annual operating budget. The board will meet annually for the purposes of making rate schedules at the time and place set out in the notice of public hearing, which notice shall be posted in the same manner as other meetings of the board concerning the adoption of the general budget of the city. (Code 1988, § 635.125; Code 1996, § 700.200; Code 2005, § 90-53; Ord. No. 719, §§ 7—10, 11-24-1986; Ord. No. 2009-060, § 1, 8-25-2009; Ord. No. 2023-0125, § 2, 10-24-2023)

Sec. 2-331. Public hearing and adoption of budget.

The board shall, prior to the adoption of the budget, at the time and place designated in the notice, hold a public hearing at which any customers of the system may appear and be heard in favor of or against any proposed expenditure or rate schedule. After the conclusion of the public

hearing, the board shall finally determine and adopt estimates of proposed expenditures for the various purposes, as set forth in the tentative budget, and such adopted estimates shall be incorporated in the budget for the next fiscal year. The board may insert new items or may increase or decrease the items in the review. The board may not vary the titles, descriptions or conditions of administration specified in the budget, unless required to do so by ordinances of the city, or by law.

(Code 1988, § 635.125; Code 1996, § 700.200; Code 2005, § 90-53; Ord. No. 719, §§ 7—10, 11-24-1986; Ord. No. 2009-060, § 1, 8-25-2009)

Sec. 2-332. Adoption of ordinance fixing rate.

The board shall adopt rates sufficient to raise the amounts estimated to be required in the annual budget.

(Code 1988, § 635.125; Code 1996, § 700.200; Code 2005, § 90-53; Ord. No. 719, §§ 7—10, 11-24-1986; Ord. No. 2009-060, § 1, 8-25-2009)

Sec. 2-333. Budget to include payments to principal and interest funds.

In making the estimates of proposed expenditures for the various purposes, the board shall include not only such amounts as may be required to operate and maintain the system, but an amount sufficient to pay the interest or any principal payment on the bonded indebtedness of the system when due. Additionally, the board shall include in such estimates an amount sufficient to fund all reserve requirements and to satisfy all rate covenants heretofore made by the city in any ordinance authorizing the issuance of bonds on behalf of the system.

(Code 1988, § 635.125; Code 1996, § 700.200; Code 2005, § 90-53; Ord. No. 719, §§ 7—10, 11-24-1986; Ord. No. 2009-060, § 1, 8-25-2009)

Secs. 2-334—2-349. Reserved.

DIVISION 3. PURCHASING AND PROCUREMENT

Sec. 2-350. Appointment of purchasing agent; general authority.

The purchasing agent shall be appointed by the city administrator. The purchasing agent, when authorized, shall solicit for bids and procure for the city all supplies and contractual services needed by the city, in accordance with the procedures prescribed by this division or required by law.

(Code 1988, § 110.090(A); Code 1996, § 160.010; Code 2005, § 2-451; Ord. No. 650, § 1, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 97-059, § 1, 10-27-1997)

Sec. 2-351. Specific powers and duties of purchasing agent.

In addition to the purchasing authority conferred in section 2-350, and in addition to any other powers and duties conferred by this division or any other ordinance, the purchasing agent shall:

- (1) Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city.
- (2) Prepare and adopt written specifications for all supplies and services.
- (3) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
- (4) Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations, and private businesses and organizations.
- (5) Prescribe and maintain such forms necessary for the operation of the purchasing function.
- (6) Prepare, account, and maintain a vendors' catalog file. The catalog shall be filed

according to materials and shall contain descriptions of vendors' commodities, prices, and discounts.

- (7) Exploit the possibilities of buying in bulk so as to take full advantage of discounts.
 - (8) Act so as to procure for the city all federal and state tax exemptions to which it is entitled.
 - (9) Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time.
 - (10) Inspect or supervise the inspections of all deliveries with regard to quantity, quality and conformance to specifications.
 - (11) Pursue all appropriate claims against the supplier, shipper or carrier.
- (Code 1988, § 110.090(B); Code 1996, § 160.020; Code 2005, § 2-452; Ord. No. 650, § 2, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993)

Sec. 2-352. Requisitions and estimates.

(a) Each city department or agency shall file with the purchasing agent detailed requisitions or estimates of its requirements in supplies and contractual services in such manner, at such times, and for such future periods as the purchasing agent shall prescribe.

(b) A city department or agency shall not be prevented from filing, in the same manner, with the purchasing agent, at any time, a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when the detailed estimates were filed.

(c) The purchasing agent shall examine each requisition or estimate and shall have the authority to revise it as to quantity, quality, or estimated cost.

(Code 1988, § 110.090(C); Code 1996, § 160.030; Code 2005, § 2-453; Ord. No. 650, § 3, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993)

Sec. 2-353. Competitive bidding required; exceptions.

(a) *Competitive bidding required.* Except as set forth in this section, when the city negotiates any purchase or other contract, there shall be provided ample opportunity for competitive bidding in the following manner:

- (1) If the consideration is not more than \$5,000.00, the purchase shall be procured in the most expedient manner with due regard for competitive prices and quality.
- (2) If the consideration is for more than \$5,000.00, but less than \$20,000.00, at least three bids shall be solicited with a written confirmation from three prospective vendors. The purchase shall be approved by the director.

If less than three bids are received, the director or designee shall determine if responses are appropriate. Award shall be made notwithstanding the limited number of bids and a memo shall be written and approved by the purchasing agent documenting the determination and submitted as part of the bid file.

- (3) All supplies and contractual services estimated to cost more than \$20,000.00 but less than \$50,000.00 shall be purchased by a formal, written contract with the exception of a single item one time purchase from the lowest and best responsible bidder, after soliciting three written or electronic bids.

If less than three bids are received, the director or designee shall determine if responses are appropriate. Award shall be made notwithstanding the limited number of bids and a memo shall be written and approved by the purchasing agent documenting the determination and submitted as part of the bid file.

- (4) All supplies and contractual services estimated to cost \$50,000.00 or more shall be purchased by formal sealed bid and the contract shall be awarded to the lowest and best responsible bidder, after due notice as defined by section 2-354,

inviting proposals. Whenever possible, at least three bids should be obtained from prospective qualified vendors.

If less than three bids are received, the director, designee or purchasing agent shall determine if responses are appropriate. Award shall be made notwithstanding the limited number of bids and a memo shall be written and approved by the purchasing agent documenting the determination and submitted as part of the bid file. The purchasing agent shall initiate, if appropriate, corrective action to increase competition in future solicitations for the same or similar items and include a notation of such action in the records of the invitation for bids.

- (5) Individual contracts, purchases, or sales, be they for goods, supplies, commodities, or services, shall not be excluded from the requirement of competitive bidding described in this section, except as set forth in subsection (b) of this section. Unless otherwise required by law, contracts shall be approved by the city administrator when funds for such purchase have been approved by the board in the annual budget. The board shall acknowledge receipt of a monthly contract report listing awarded contracts.

- (6) Individual contracts or purchases shall not be subdivided for the purpose of evading the requirement of competitive bidding.

- (7) Revenue contracts shall be approved by the city administrator.

(b) *Exceptions.* The following purchases shall be excluded from the requirement of competitive bidding when funds for such purchases have been approved by the board in the annual budget:

- (1) *Professional services.* Services of individuals professionally licensed under the laws of the state within the scope of practice of architecture, professional engineering, accountant, attorney, registered land

surveyor, licensed real estate salesperson, or other professional services allowed per state statute.

- a. In the procurement of professional services, the city may encourage firms engaged in the lawful practice of these professions to submit annual statements of qualifications and performance data or may request such information as needed for a particular public project.
 - b. The city is not required to use competitive bidding for the procurement of professional services allowed per state statute.
- (2) *Sole source vendor.* When the goods or services are not available except from a vendor who is the exclusive marketer of the good or service. This shall be approved by the purchasing agent and retained in the bid file.
- (3) *Auctions.* Due to the fast pace of auctions including online auctions, directors are authorized to purchase items at auction with the written approval of the city administrator when funds for such purchase have been approved by the board in the annual budget.

(Code 1988, § 110.090(H); Code 1996, § 160.080; Code 2005, § 2-455; Ord. No. 650, § 8, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 97-059, § 2, 10-27-1997; Ord. No. 99-665, § 3, 4-12-1999; Ord. No. 99-959, § 3, 10-11-1999; Ord. No. 2009-098, § 1, 12-8-2009; Ord. No. 2022-0019, § 2, 2-22-2022; Ord. No. 2023-0121, § 2, 10-10-2023; Ord. No. 2024-0027, § 2, 3-26-2024)

Sec. 2-354. Notice inviting bids.

The notice required by section 2-353 shall consist of the following:

- (1) Notice inviting bids shall be published electronically through a method designated by the purchasing agent at least ten days preceding the last day set for the receipt of proposals. The notice required in this section shall include a general description of the articles to be purchased or sold, and shall state where

bid blanks and specifications may be secured, and the time and place for opening bids.

- (2) Responsible prospective suppliers electing to receive notice of bid solicitations shall register their business on the city's website or electronic bidding platform designated by the city and maintained by the purchasing agent. Automatic electronic notification will be sent to prospective suppliers who have added their name to the bidding platform. In any case, notifications sent to the suppliers shall be limited to commodities or services that are selected by the supplier during registration or bid notification selections.

(Code 1988, § 110.090(I); Code 1996, § 160.090; Code 2005, § 2-456; Ord. No. 650, § 9, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 2020-0089, § 2, 8-25-2020)

Sec. 2-355. Bid opening procedure.

Bids shall be submitted through the electronic bidding platform designated by the city. They shall be opened in public at the time and physical or electronic place stated in the public notices. (Code 1988, § 110.090(J); Code 1996, § 160.100; Code 2005, § 2-457; Ord. No. 650, § 10, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 2020-0089, § 2, 8-25-2020)

Sec. 2-356. Determination of lowest and best responsible bidder.

(a) The city reserves the right to reject any or all bids. Bids may be awarded to the lowest and best responsible bidder. Bids shall not be accepted from, nor contract awarded to, a contractor who is in default on the payment of taxes, licenses or other monies due the city. In determining the lowest and best responsible bidder, in addition to price, the following shall be considered:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.

- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - (4) The quality performance of previous contracts or services.
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
 - (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
 - (7) The quality, availability and adaptability of the supplies, or contractual services, to the particular use required.
 - (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
 - (9) The number and scope of conditions attached to the bid.
- (b) When bids received pursuant to this division are unreasonable or unacceptable as to terms and conditions, noncompetitive, or the low bid exceeds available funds and it is determined in writing by the city administrator that time or other circumstances will not permit the delay required to resolicit competitive bids, a contract may be negotiated pursuant to this division, provided that each responsible bidder who submitted such bid under the original solicitation is notified of the determination and is given a reasonable opportunity to modify their bid and submit a best and final bid to the city. In cases where the bids received are noncompetitive or the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible bidder under the original solicitation.
 (Code 1988, § 110.090(K); Code 1996, § 160.110; Code 2005, § 2-458; Ord. No. 650, § 11, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 2023-0019, § 2, 3-14-2023)

Sec. 2-357. Justification of award.

When the award is not given to the lowest bidder, documentation stating the reasons shall be provided and retained in the bid file.
 (Code 1988, § 110.090(L); Code 1996, § 160.120; Code 2005, § 2-459; Ord. No. 650, § 12, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993)

Sec. 2-358. Tie bids.

If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the bid shall be awarded to a local bidder. Where there is no local low bidder, the award shall be made on the basis of a drawing, to be held in public.
 (Code 1988, § 110.090(M); Code 1996, § 160.130; Code 2005, § 2-460; Ord. No. 650, § 13, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993)

Sec. 2-359. Emergency purchases.

Emergency purchases are purchases necessitated by non-recurring emergency situations posing a substantial danger to the health, safety and welfare of citizens or of a risk of substantial financial loss to the city unless the required supplies, materials, equipment or services are obtained as expeditiously as possible. By written approval, the city administrator may authorize the purchase as outlined below.

- (1) For purchases under \$50,000.00, the department director requesting an emergency purchase shall document by a memorandum to the city administrator which sets forth the nature of the emergency and that the lowest price was obtained when possible. All documentation shall be submitted to the city clerk for retention.
- (2) For purchases \$50,000.00 and over, the department director requesting an emergency purchase shall document by a memorandum to the city administrator which sets forth the nature of the emergency and that the lowest price was obtained when possible. The purchase may be done without following the competitive bid provisions and without a formal contract approved by the board. A

memo with the full explanation of the circumstance of the emergency purchase shall be made to the board and submitted to the city clerk for retention along with all related documentation.

- (3) At no time when using this section may prevailing wage requirements be waived.
(Code 1988, § 110.090(N); Code 1996, § 160.140; Code 2005, § 2-461; Ord. No. 650, § 14, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 2022-0054, § 2, 7-12-2022)

Sec. 2-360. Cooperative procurement.

The purchasing agent shall have the authority to join with other units of government in cooperative purchasing when the best interest of the city would be served; provided that they meet the city's competitive bidding process, including "piggy-back" bids.

(Code 1988, § 110.090(O); Code 1996, § 160.150; Code 2005, § 2-462; Ord. No. 650, § 15, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993)

Sec. 2-361. Contracts for municipal services to property outside city limits.

(a) The board is authorized to enter into contracts with customers for municipal services to property outside the city limits. The city administrator may be authorized under specific circumstances to enter into such contracts as allowed by code.

(b) No contract shall be authorized unless the following conditions are met:

- (1) The contract must be in writing with the owner or entity of the unincorporated area that is legally responsible for the payment of bills incurred by the city or fees and charges established by the city.
- (2) The contract shall never be such as to exceed the debt limits of the city.
- (3) The rates for such services shall be as established by code and in greater sum always than the rates paid by citizens of the city who receive the same services.

(Code 1988, § 100.070; Code 1996, § 100.050; Code 2005, § 2-463; Ord. No. 694, §§ 1—4, 1-27-1986; Ord. No. 2011-051, § 1, 5-24-2011; Ord. No. 2017-0046, § 2, 3-28-2017)

Sec. 2-362. Sale or disposition of surplus personal property; sale of real property.

(a) A department director having charge of any surplus, obsolete or unused supplies, materials or equipment may dispose of the property in the following manner:

- (1) If the item is personal property with a value of \$5,000.00 or less, the purchasing agent is authorized to sell the property to the highest bidder through any form of open market competition. The purchasing agent may set a minimum sale price, may bundle property together for sale in lots, and may reject any bid that, if in the purchasing agent's judgment, is not a fair sale price.
- (2) If the item is personal property with a value greater than \$5,000.00, the city administrator is authorized to sell the property upon board approval by the adoption of a resolution.
- (3) The purchasing agent is authorized to transfer any individual piece of personal property, consistent with the public interest, with or without compensation, to any government entity, or other organization designated as a 501(c)(3) by the Internal Revenue Service upon approval by the city administrator.
- (4) If the property has been designated to be in an inoperable or nonfunctioning state, (of little or no value) by the department director, it may be disposed of, consistent with the public interest, in any manner as deemed appropriate by the department upon approval by the department director.

(b) Real property may be sold only with the approval of the board by ordinance.
(Code 1988, § 110.090(H); Code 1996, § 160.080; Code 2005, § 2-455; Ord. No. 650, § 8, 5-29-1984; Ord. No. 93-68, § 1, 7-26-1993; Ord. No. 97-059, § 2, 10-27-1997; Ord. No. 99-665, § 3, 4-12-1999; Ord. No. 99-959, § 3, 10-11-1999; Ord. No.

2009-098, § 1, 12-8-2009; Ord. No. 2021-0013, § 2, 2-9-2021; Ord. No. 2023-0005, § 2, 2-28-2023)

Sec. 2-363. Ecological impact to be considered when making purchases.

The city shall encourage responsible growth and make sensible efforts to create a more sustainable community. Use of environmentally preferable products will be urged when they have a less adverse impact on the environment. Products containing post-consumer waste are supported where possible. Products that utilize recycled materials or materials diverted from the waste stream, in its manufacture and construction, will be promoted when it is not detrimental to the intended use.

Secs. 2-364—2-380. Reserved.

ARTICLE VI. CONSULTING SERVICES

Sec. 2-381. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Consulting services means those professional services within the scope of practice of architecture or engineering, or those performed by an architect, professional engineer, or registered land surveyor, or other professional services allowed per state statute in connection with this professional employment or practice.

Firm means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, land surveying, or other professional services allowed per state statute.

(Code 1988, § 125.010; Code 1996, § 125.010; Code 2005, § 2-381; Ord. No. 94-136, § 1, 11-28-1994)

Sec. 2-382. Consultant information and qualifications.

(a) *Information to be kept on file.* The city will maintain submitted information related to qualified firms on file.

(b) *Qualifications.* Each firm meeting the following minimum qualifications shall be a qualified firm, meeting the qualifications of the city:

- (1) Duly authorized to conduct business in the state in their particular profession.
- (2) Professional registration by the state.

(c) *Resumes and data.* Each person or firm on file shall be responsible for maintaining a current resume describing his or their qualifications and experience. Data which should be included is as follows:

- (1) Firm name, address, telephone numbers.
- (2) Year established and former firm names.
- (3) Types of services for which it is qualified.
- (4) Names of principals of the firm and states in which they are registered.
- (5) Names of key personnel, with experience of each and length of time in the organization.
- (6) Number of staff available for assignment.
- (7) Outside consultants and associates usually retained.
- (8) List of completed projects on which the firm was principal engineer.
- (9) Current projects underway and estimated cost of each.
- (10) Data-gathering methods, if appropriate.
- (11) Evaluation techniques, if appropriate.

(Code 1988, § 125.020; Code 1996, § 125.020; Code 2005, § 2-382; Ord. No. 94-136, § 1, 11-28-1994)

Sec. 2-383. Project initiation.

(a) When a city department, the board or a board subcommittee identifies a project for which professional services will be necessary and for which funds are budgeted within the current

year's budget, and for which qualified participating firms have not already been collected for related or similar projects, the related city department will draft a request for qualifications.

(b) The request for qualifications will be submitted to those qualified firms on file with the city. The request for qualifications may also be published in classified advertisement sections of the newspaper, trade publications or other means of notification as deemed necessary given the nature of the proposed project.

(c) The request for qualifications will, at a minimum, require qualified firms to submit the following information:

- (1) Experience in type of work covered by the request.
- (2) Firm history of completing related projects on time and at or under budget.
- (3) Name, number and qualifications of individuals from the firm assigned to the project team.
- (4) Geographic location of principal offices of the firm.
- (5) Proposed schedule for completion of the project by the firm.
- (6) A general description of how the project is to be completed or conducted.
- (7) Any other information particularly requested within the proposal or included by the firm that is deemed relevant to the project.

(Code 1988, § 125.030; Code 1996, § 125.030; Code 2005, § 2-383; Ord. No. 94-136, § 1, 11-28-1994; Ord. No. 2008-027, § 1, 3-10-2008; Ord. No. 2022-0129, § 2, 12-13-2022; Ord. No. 2023-0027, § 2, 4-11-2023)

Sec. 2-384. Project screening.

(a) Requests for qualifications submitted as outlined in this division will be reviewed by city staff.

(b) The firm that is best suited to perform the project, based on the evaluation of items in section 2-383, will be selected for negotiation of a contract for performance of the project.

(Code 1988, § 125.040; Code 1996, § 125.040; Code 2005, § 2-384; Ord. No. 94-136, § 1, 11-28-1994; Ord. No. 2022-0129, § 2, 12-13-2022)

Sec. 2-385. Contract negotiation and approval.

(a) City staff will negotiate a contract with the selected firm based upon the response to the request for qualifications.

(b) The contract will be processed in accordance with city procedures.

(Code 1988, § 125.050; Code 1996, § 125.050; Code 2005, § 2-385; Ord. No. 94-136, § 1, 11-28-1994; Ord. No. 2022-0129, § 2, 12-13-2022)

ARTICLE VII. OPEN MEETINGS AND RECORDS

Sec. 2-386. Definitions.

The words, terms and phrases, when used in this article, shall have the meanings as defined in the Missouri Sunshine Law, RSMo 610.010.

(Ord. No. 2024-0007, § 2, 1-23-2024)

State law reference—Similar provision, RSMo 610.010.

Sec. 2-387. Opening meetings, votes and records; when closure permitted.

(a) It is the written policy of the City of Branson that public meetings, records, votes, actions and deliberations of this body shall be open to the public for public inspection and duplication and handled in accordance with RSMo 610.020 and 610.026, unless otherwise provided in this article or by state law.

(b) For the purpose of compliance with RSMo 610.020, the established public notice location shall be the bulletin board placed in a prominent place which is easily accessible to the public in Branson City Hall located at 110 W. Maddux Street and clearly designated as the official posting board for the city per RSMo.

(c) The city may close meetings and records to the extent permitted under RSMo 610.021. In addition, all records that may be closed are deemed closed unless the city votes to make them public.

(d) The procedure for closing a meeting or vote shall be as provided in RSMo 610.022.

(e) In no event shall this article be construed to enlarge the city's obligations with respect to public records requests beyond that which is required by law.

(f) City administration shall provide a report on city government transparency and public engagement initiatives to the board annually.

(Ord. No. 2024-0007, § 2, 1-23-2024; Ord. No. 2024-0029, § 2, 4-9-2024)

State law reference—Similar provision, RSMo 610.020, 610.021, 610.022 and 610.026.

Sec. 2-388. Records custodian appointed; duties.

(a) The city clerk is appointed as the custodian of records of the City of Branson and that such custodian is located at Branson City Hall, City Clerk's Office, 110 W. Maddux, Street, Suite 205, Branson, Missouri. The custodian is authorized to appoint assistant custodians to aid in the performance of the custodian's duties, as established by state law and city policies which govern access to and maintenance of public records, meetings and votes.

(b) No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian.

(Ord. No. 2024-0007, § 2, 1-23-2024)

State law reference—Similar provision, RSMo 610.023.

Sec. 2-389. Records to be available; denial of records requests; procedure; and fees.

(a) The custodian shall respond to all requests for access to or copies of public records within the time period provided in RSMo 610.023. All requests for information are encouraged to be in writing and for the convenience of the requester, the use of the city's request for records form is

recommended. Requests for records made to persons other than the city clerk or designated custodian of records or are otherwise not received shall not be considered request for records as outlined in accordance with Missouri Sunshine Law, RSMo ch. 610.

(b) If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester.

(c) Fees for access to or furnishing copies of records shall be in accordance with RSMo 610.026 and outlined on the city's request for records form. The city does not waive or reduce fees. If payment is not received within 15 days from the date payment is requested, then the request shall be considered inactive and a new request will need to be made to the custodian of records.

(d) The city does not duplicate, or provide copies of, or otherwise reproduce blueprints, plans, or any other records protected by copyright laws except as provided by law. Copyrighted materials may be viewed in person at City Hall upon submittal of a request for records.

(e) If the estimated cost of the request exceeds \$50.00, a deposit of the cost shall be required before any work is carried out and the estimated completion date will be calculated from the day the deposit is received. If a deposit is not received within 15 days from the date the deposit is requested, then the request shall be considered inactive and a new request will need to be made to the custodian of records.

(f) Staff is not required to create new records, analyze data or answer questions when responding to requests. A records request is for records and reports that already exist within the city's

possession. If records are available online, a link will be provided to access records in lieu of copies.

(g) The city shall comply with RSMo 610.010 to 610.030, the Missouri Sunshine Law, as now existing or hereafter amended.

(Ord. No. 2024-0007, § 2, 1-23-2024)

State law reference—Similar provision, RSMo 610.023 and 610.026.

Secs. 2-390—2-415. Reserved.

Chapters 3—5

RESERVED

Chapter 6

ALCOHOLIC BEVERAGES*

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- Sec. 6-2. Drinking in public.
- Sec. 6-3. Public nuisances prohibited.
- Sec. 6-4. Renting premises for illegal sale.
- Sec. 6-5. Open containers of alcoholic beverages in motor vehicles.
- Sec. 6-6. Sale of wood alcohol or denatured alcohol.
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Article II. Classification of Licenses and License Fees

- Sec. 6-31. License required; license categories; number of licenses; fees.
- Sec. 6-32. Wine manufacturer's license.
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Article III. Applications

- Sec. 6-57. Application fee.
- Sec. 6-58. Forms and process.
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- Sec. 6-60. False or incomplete information in applications.
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- Sec. 6-81. Issuance and term.
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- Sec. 6-83. Proximity to church or school.
- Sec. 6-84. Certain individuals prohibited.
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- Sec. 6-89. State permit and license required prior to issuance of city license.
- Sec. 6-90. License required for consumption on premises.
- Secs. 6-91—6-111. Reserved.

***State law references**—Liquor control law, RSMo ch. 311; municipal authority to license and regulate alcoholic beverages, RSMo 311.220; drunkenness and drinking in certain places prohibited, RSMo 574.075; cities prohibited from arresting or punishing public intoxication, RSMo 676.305; exception to restrictions on authority of municipality to arrest or punish for offenses involving drunkenness or being under the influence of alcohol, RSMo 67.310; method of law enforcement for handling intoxicated persons, RSMo 67.315.

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Article V. Administration and Enforcement

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- Sec. 6-112. Records of licenses and permits.
Sec. 6-113. Forms of applications, licenses and permits.
Sec. 6-114. Authority of director to issue licenses and permits and make rules, regulations and orders.
Sec. 6-115. Inspection of licensed premises; impoundment of unlawful articles.
Sec. 6-116. Examination of books and records of licensees.
Sec. 6-117. Denial, suspension or revocation of license or permit.
Sec. 6-118. Refusal to obey subpoena.
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Sec. 6-120. Failure to close premises during suspension of license or closing order.
Secs. 6-121—6-138. Reserved.

Division 2. Review by Board of Aldermen

- Sec. 6-139. Required hearings and review of director's actions by board.
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Article VI. Conduct of Business

- Sec. 6-165. General requirements for all licensees.
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Article VII. Minors

- Sec. 6-208. Employment of minors and sales by minors.
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ALCOHOLIC BEVERAGES

Article VIII. Licensure After Annexation of Property

- Sec. 6-238. Duty to obtain license upon annexation of property by city.
- Sec. 6-239. Provisions for additional licenses.
- Sec. 6-240. Criteria for issuance of license.
- Secs. 6-241—6-260. Reserved.

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

(a) Where a word or term is not defined in this chapter but is defined elsewhere in this Code, such definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.

(b) Where a word or term is defined in this chapter and also defined elsewhere within this Code, the definition contained in this chapter shall be deemed operative.

(c) Where a word or term is neither defined in this chapter nor defined elsewhere within this Code, the definition found in RSMo ch. 311 and the Rules and Regulations of the Supervisor of Alcohol and Tobacco Control, 11 CSR 70-1 and 11 CSR 70-2 shall be applicable unless the context indicates that a standard dictionary definition is more appropriate.

(d) 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Alcohol beverage vaporizer means any device which, by means of heat, a vibrating element or any method, is capable of producing a breathable mixture containing any one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose and/or mouth.

Alcoholic beverages means intoxicating liquor, malt liquor or nonintoxicating beer.

Annual gross sales means the gross sales shown on the prior year's state sales tax return.

Customer means any person not an employee who enters or remains upon a licensed premises with actual or implied permission of the licensee or a person who purchases or otherwise partakes of any merchandise, goods, entertainment or other services offered upon the premises.

Dancer means any person performing a semi-nude dance, or who performs a dance for any customers upon the premises of an establishment that allows seminude dancing.

Direct participation in retail sales includes the duties of accepting payment, taking orders, delivering, mixing, or assisting in mixing or serving intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, server, cashier, and sales clerk.

Domestic wine means wine containing not in excess of 14 percent of alcohol by weight and manufactured exclusively from grapes, berries, and other fruits and vegetables grown in the state.

Entertainment includes, but is not limited to, jukeboxes, pool tables, video and pinball machines, live musicians, semi nude dancing, and stage shows or contests.

Finance director, unless otherwise described, means the director of finance, who, with the approval of the city administrator, shall designate a liquor control specialist, or other individuals to perform duties as set forth in this chapter. Duties may be performed by the named officer or any city officer or employee under their direction or supervision, if that individual has been assigned to perform the duties in question. Duties concerning administrative appeals are not to be delegated.

Intoxicating liquor or *liquor* means and includes alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparation 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, but subject to inspection as provided by RSMo 196.365 through 196.445.

Licensee means the holder of any licenses issued under the provisions of this chapter.

Light wine means wine containing not in excess of 14 percent of alcohol by weight, manufactured exclusively from grapes, berries and other fruits and vegetables.

Liquor control specialist means those individual city officers or city employees designated to perform duties and responsibilities as may be required by this chapter, including but not limited to the processing of applications for licenses, preliminary approval or denial of license applications, collection of fees as set forth in the city fee schedule, recommendation of suspension or denial of a license, and such other actions as are necessary to give full force and effect to the provisions found in this chapter.

Liquor license means any license issued under the provisions of this chapter.

Location means the property parcel upon which a licensed premises is situated.

Malt liquor means any beer or other malt beverage manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals and wholesome yeast and pure water, and having an alcoholic content in excess of 3.2 percent by weight.

Managing officer means the person designated by the licensee who is an employee of the licensee and is actively engaged in the day-to-day management of a business licensed under this chapter, and who would be eligible as an individual to receive a license for the sale of alcoholic beverages, and who is a qualified voter of the state. The managing officer cannot be an agent of the licensee.

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

Minor means any person under the age of 21 years.

Nonintoxicating beer means any beer manufactured from pure hops or pure extracts of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water, and free from all harmful substances, preservatives and adulterants, and having an

alcoholic content of more than 0.005 percent by volume, and not exceeding 3.2 percent of alcohol by weight.

Original license means any license issued under this chapter on an application for a new license whether or not the proposed premises was previously licensed under this chapter but shall not mean a renewal license.

Original package means any package containing three or more standard bottles or cans of malt liquor or nonintoxicating beer, a package containing 50 milliliters (1.7 ounces) or more of spirituous liquor and a package containing 100 milliliters (2.4 ounces) or more of vinous liquor in the manufacturer's original container. A standard bottle or can is any bottle or can containing 12 ounces or less of malt liquor or nonintoxicating beer.

Premises means the bounds of the enclosure where alcoholic beverages are permitted to be sold, stored or consumed under the authority of this chapter.

Resort.

(1) The term "resort" means any licensee who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, who may apply for, and the finance director or liquor control specialist may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail on a daily basis, as a resort, for consumption on the premises of any resort as described in the application.

(2) The term "resort" additionally means:

- An establishment having at least 30 rooms for the overnight accommodation of transient guests, having a restaurant on the premises. At least 60 percent of the restaurant's annual sales must be derived from the sale of prepared meals or food;
- An establishment having a restaurant on the premises, and whose annual gross receipts shall

- not have been less than \$75,000.00 per year with at least \$50,000.00 of such gross receipts from nonalcoholic sales; or
- c. A seasonal resort restaurant with food sales as defined in this section.
- (3) Any facility that is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink, as a resort, for consumption on the premises of such facility and, for the purpose of meeting the annual gross receipts requirements of this subsection. 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 means any food service establishment where food is prepared and intended for individual portion service and includes the site at which individual portions are prepared, which establishment has gross receipts derived from the sale of prepared meals or food consumed on or off the premises.

Retail floor space means the area within a business which is accessible to the public, in which merchandise is displayed and from which sales are made. Customer restroom areas and storage areas are excluded in the calculation of retail floor space.

Retail package dealer means any person engaged in the sale of liquor in the original packages only. Retail package license holders first licensed before December 31, 2014, must have a minimum of \$5,000.00 in sales of alcoholic beverage sales in the previous calendar year (prorated if licensed for less than a year) in order to have their license renewed. Those first licensed after January 1, 2015, must have a minimum of \$10,000.00 in alcoholic beverage sales in the previous calendar year (prorated if licensed for less than a year) in order to have their license renewed.

Retail type store means one that sells goods or commodities directly to consumers as its primary business.

Retailer means a person holding a license to sell or to offer to sell intoxicating liquor or nonintoxicating beer to a consumer only.

Seasonal resort restaurant means a restaurant which is not a new restaurant establishment and which is open for business eight or fewer consecutive months in any calendar year. Fifty percent of all gross sales of such restaurant shall be sales of prepared meals. Any new seasonal resort restaurant establishment having been in operation for less than 12 weeks may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises for a period not to exceed 90 days if the seasonal resort restaurant establishment can show a projection for annualized gross sales of which 50 percent shall be sales of prepared meals. The temporary license fee and the annual license fee shall be prorated to reflect the period of operation of the seasonal resort restaurant. The license shall be valid only during the period for which application was made and for which the fee was paid. Any seasonal resort restaurant, upon resuming business for its season of operation, shall not be considered a new establishment for purposes of issuing a temporary license. Nothing in this definition shall prohibit a seasonal resort restaurant from becoming a resort restaurant upon application, payment of fees, and compliance with the requirements of this chapter.

Seminude dance means any live exhibition, performance or dance by a person or persons in a state of dress in which opaque clothing covers no more than the areola of the female breast, the genitals or pubic region and anus, as well as portions of the body covered by straps or strings supporting that clothing.

Specified anatomical areas means human genitals, pubic region or pubic hair, or anus, female breast or breasts below a point immediately above the top of the areola.

Spirituos liquor means and includes brandy, rum, whiskey, gin, and all preparations or mixtures for beverage purposes of a like character and excludes all vinous, fermented, or malt liquors.

Tavern means any licensed premises that sells liquor by the drink which derives the majority of its annual gross sales from alcoholic beverages and does not qualify to be categorized as a resort, restaurant-bar, amusement place or place of entertainment as defined in this chapter.

Wholesale dealer means any person engaged in the sale and distribution of intoxicating liquor either directly or through an agent or agency soliciting orders therefor in quantities of one gallon or more.

Wholesaler means a person holding a license to sell intoxicating liquor or nonintoxicating beer to wholesalers or to retailers.

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, domestic wine. A license issued pursuant to this chapter for the privilege of manufacturing wine or brandy shall be issued consistent with provisions of RSMo 311.190 and the definitions and provisions contained therein shall control.

Winery means any establishment at which wine is made.

(Code 2005, § 10-1; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2010-035, § 1, 3-23-2010; Ord. No. 2013-0047, § 1(10-1), 4-9-2013; Ord. No. 2014-0126, § 2(10-1), 11-10-2014; Ord. No. 2019-0204, § 2, 11-26-2019; Ord. No. 2020-0154, § 2, 11-10-2020; Ord. No. 2021-0091, § 2, 8-10-2021)

Sec. 6-2. Drinking in public.

(a) Except at the location of a special event authorized pursuant to city zoning regulations, or where specifically authorized pursuant to a state division of alcohol and tobacco control liquor license or permit, the consumption by any person, either in a vehicle or otherwise, of any intoxicating beverages, including beer, whether it is 3.2 percent alcohol or otherwise, wines or intoxicating liquors, upon any public street, highway, thoroughfare, sidewalk, alley, or public or private parking lot, or upon any private

property without the permission of the owner or occupant of such property other than an establishment specifically licensed to sell beer or intoxicating liquors is hereby declared to be unlawful.

(b) No owner or occupant of property shall permit a person to consume any intoxicating beverages, including beer, whether it is 3.2 percent alcohol or otherwise, wines or intoxicating liquors upon their property open to the public, or upon a private parking lot by a person without permission, except at the location of a special event authorized pursuant to city zoning regulations, or, where specifically authorized, pursuant to a state division of alcohol and tobacco control liquor license or permit.

(c) This section shall not apply to the Branson Lakeside RV Park, and the consumption of alcoholic beverages by those persons who rent camping spaces at the Branson Lakeside RV Park, nor to their family or guests.

(Code 2005, § 10-81; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-3. Public nuisances prohibited.

No person shall permit a public nuisance to exist involving intoxicating liquor, beer or wine on their property. The city attorney is directed to file injunctions in the event of a public nuisance in matters involving alcoholic beverages on the premises of a licensed person or unlicensed property owner seeking to enjoin said nuisance. With respect to a licensee, a finding that such condition is a public nuisance shall result in the revocation of the license.

(Code 2005, § 10-82; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2011-009, § 1, 1-11-2011)

Sec. 6-4. Renting premises for illegal sale.

No person shall knowingly let or lease to another any room, house or other building or premises for the purpose of being used and kept as a place for the illegal sale of intoxicating liquors, and every person, after having been informed by the law enforcement agency of the city that such room, house, building or premises let or leased by him is being used for any of such

purposes by the lessee or by any other person, shall immediately evict or oust lessees or other persons so using such room, house or building. (Code 2005, § 10-84; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-5. Open containers of alcoholic beverages in motor vehicles.

No person shall consume any alcoholic beverages or have, possess, carry or transport any such alcoholic beverages within the passenger area of any motor vehicle. This section shall not apply to liquor in the original container or liquor packaged according to section 6-178 with the seal unopened or container unopened. Furthermore, this section shall not apply to the exclusive possession by a passenger in a limousine, chartered bus, or similar motor vehicle licensed to transport passengers for hire; provided, however, that the driver of such vehicle is prohibited from consuming or having alcoholic beverages within his reach. Further, this section shall not apply to a recreational vehicle used for purposes of temporary housing quarters or when the alcoholic beverage is kept in a container located outside the reach of the driver of the vehicle. This section does not allow for the consumption, possession or transporting of alcoholic beverages in the passenger area of a taxicab, except as may be authorized by subsection 6-171(h).

(Code 2005, § 10-86; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2024-0090, § 2, 10-22-2024)

Sec. 6-6. Sale of wood alcohol or denatured alcohol.

No person shall sell to any person any wood alcohol or denatured alcohol, or any alcohol so adulterated by poisonous chemicals as to make it poisonous, where the seller shall have grounds to believe that it is to be used for beverage purposes. (Code 2005, § 10-87; Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 6-7—6-30. Reserved.

ARTICLE II. CLASSIFICATION OF LICENSES AND LICENSE FEES

Sec. 6-31. License required; license categories; number of licenses; fees.

(a) *License required.* It shall be unlawful, without first obtaining a license therefor from the finance director or liquor control specialist, for any person to:

- (1) Manufacture, sell, solicit orders for the sale of, or deliver, at wholesale or retail, alcoholic beverages; or
- (2) Permit the drinking of or consumption of alcoholic beverages in, on or at any premises where food, beverage, or entertainment is sold or provided for compensation and where the premises do not have a license issued by the state division of alcohol and tobacco control.

(b) *License categories, number of licenses, and fees.* The following categories of licenses are available, subject to the indicated restrictions on the total number of licenses which may be issued in each category, upon payment of the indicated fee and upon meeting all other requirements under this chapter for the issuance of such license:

- (1) Sale of malt liquor in the original package not to exceed three such licenses.
- (2) Sale of malt liquor by the drink on the premises not to exceed six such licenses.
- (3) a. Sale of intoxicating liquor in the original package: 18 such licenses for businesses of less than 10,000 square feet and for businesses exceeding 10,000 square feet that have more than five percent of retail floor space dedicated to the sale of liquor-related product three of which shall be reserved exclusively for convenience stores with retail sales of gasoline, groceries, and food for consumption on the premises, with a minimum of 600 square feet dedicated solely to restaurant seating, and which display all intoxicat-

- ing liquor for sale in the section of the store which is farthest from the main entrance as possible.
- b. Notwithstanding any foregoing provision of this section limiting the number of authorized licenses to the contrary, the finance director or designated liquor control specialist, may also authorize the issuance of any license to sell malt liquor in the original package, or intoxicating liquor in the original package, whenever the finance director or designated liquor control specialist, finds and determines that the premises at which the liquor sales will take place contain a minimum of 10,000 square feet of retail floor space, of which not more than five percent will be devoted to the sales of alcoholic beverages in their original package.
- (4) Sale of liquor by the drink, such number and type as may be licensed by the state division of alcohol and tobacco control.
- (5) Sale of Sunday liquor by the drink between the hours of 6:00 a.m. Sunday and 1:30 a.m. Monday, such number and type, including resort and seasonal resort licenses, as may be licensed by the state division of alcohol and tobacco control.
- (6) The sale of intoxicating liquor on Sunday between the hours of 6:00 a.m. Sunday and 1:30 a.m. Monday, in the original package and not for consumption on the premises. The number of licenses cannot exceed the number of weekday package liquor licenses issued.
- (7) Wine manufacturer's license, such number and type as may be licensed by the state division of alcohol and tobacco control.
- (8) Caterer's license, such number and type as may be licensed by the state department of alcohol and tobacco control, and licensed to sell liquor by the drink in the city.
- (9) Six-day, beer, and light wine license, sale of malt liquor, or light wines containing not in excess of 14 percent alcohol by weight, by the drink at retail for consumption on the premises, by any business licensed by the state division of alcohol and tobacco control for such sales.
- (10) Microbrewery license, such number and type as may be licensed by the state division of alcohol and tobacco control authorizing the licensee to manufacture or brew malt liquor or nonintoxicating beer, and in quantities not to exceed 10,000 barrels per year.
- (11) Railroad license, such number and type as may be licensed by the state division of alcohol and tobacco control.
- (12) Boat or vessel liquor by drink, such number and type as may be licensed by the state division of alcohol and tobacco control.
- (13) Other licenses permitted by state law, including but not limited to, wholesaler, solicitor, manufacturer, and caterer's licenses of such number and type as may be licensed by the state division of alcohol and tobacco control.
- (c) No establishment shall be licensed under this chapter unless it conforms to the 300-feet separation requirement from any church or school.
- (d) The fee for each city liquor license issued per this chapter is an amount equal to 1.5 times the fee charged by the state division of alcohol and tobacco control per state license.
- (e) No person holding a license under this chapter shall be permitted to engage in the sale or delivery of liquor or any other alcoholic beverage on Sunday unless in possession of a Sunday liquor license or otherwise permitted by law.
 (Code 2005, § 10-2; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2010-035, § 1, 3-23-2010; Ord. No. 2013-0047, § 1(10-2), 4-9-2013; Ord. No. 2014-0126, § 2(10-2), 11-10-2014; Ord. No. 2019-0204, § 2, 11-26-2019; Ord. No. 2020-0154, § 2, 11-10-2020; Ord. No. 2021-0091, § 2, 8-10-2021; Ord. No. 2024-0090, § 2, 10-22-2024)

Sec. 6-32. Wine manufacturer's license.

(a) Any applicant for a license to manufacture, sell or distribute wine or wine products shall certify in writing, to the finance director or liquor control specialist, that the applicant is in full compliance with RSMo 311.190(1), (2), and (3).

(b) Any manufacturer licensed under this section may purchase and sell bulk or packaged wines or brandies received from other manufacturers licensed under this section and may also purchase in bulk, bottle and sell to duly licensed wineries, wholesalers and retail dealers on any day except Sunday, and a manufacturer licensed under this section may offer samples of wine, may sell wine and brandy in its original package, directly to consumers at the winery and may open wine so purchased by customers so that it may be consumed on the winery premises on Monday through Saturday between 6:00 a.m. and 12:00 midnight and on Sunday between 11:00 a.m. and 10:00 p.m.

(c) The violation of this chapter shall result in an automatic revocation of any license issued pursuant to this section.

(Code 2005, § 10-3; Ord. No. 2008-075, § 1, 7-28-2008; Ord. No. 2008-100, § 1, 10-14-2008)

of a license issued under the provisions of this section, as they apply to establishments licensed under this Code.

(Code 2005, § 10-4; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-4), 4-9-2013; Ord. No. 2019-0204, § 2, 11-26-2019)

Sec. 6-34. Boat or vessel, liquor sale by drink; requirements, fee; boat defined.

(a) Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter and who meets the requirements of and complies with the provisions of this chapter may apply for, and the finance director or liquor control specialist may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises of any boat, or other vessel licensed by the federal Coast Guard to carry 100 or more passengers for hire on navigable waters in this state, which has a regular place of mooring in a location in this city or within 200 yards of a location which would otherwise be licensable under this chapter. The license shall be valid even though the boat, or other vessel, leaves its regular place of mooring during the course of its operation. Gambling shall not be permitted on any such boat or vessel licensed under these provisions.

(b) Each boat providing liquor by the drink at retail for consumption on the premises is required to have a separate license.

(c) No person holding a license under this section may sell or deliver intoxicating liquor or any other alcoholic beverage except during the period of time beginning one hour prior to the boat or vessel leaves its regular place of mooring during the course of its operation and continuing thereafter until a time ending one hour after the boat or vessel returns to its regular place of mooring.

(Code 2005, § 10-5; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-5), 4-9-2013)

Secs. 6-35—6-56. Reserved.

ARTICLE III. APPLICATIONS

Sec. 6-57. Application fee.

(a) An application fee in the amount provided in the city fee schedule shall accompany each application for an original license issued under this chapter. An application fee in the amount provided in the city fee schedule shall accompany each application or request for an additional license type (i.e., Sunday license, tasting license, etc.), a change in liquor license classification to another issued under this chapter, or a change in the licensed premises. The application fee is to cover the various costs incurred by the city in investigating and processing the applications. The application fee is not refundable.

(b) An application fee in the amount provided in the city fee schedule shall accompany each application for a change in managing officer for a licensed liquor establishment. The application fee is non-refundable should the individual fail to meet the minimum requirements for a managing officer for a licensed liquor establishment. Requests for approval of a different managing officer for a licensed liquor establishment must be submitted on a completed city application along with required documents and an approved background check within 30 calendar days of the change.

(Code 2005, § 10-10; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-10), 4-9-2013)

financial interest in the partnership, as defined in RSMo 311.060(4). If the application is on behalf of a corporation, the date of incorporation, the state in which incorporated, the amount of paid-in capital, the amount of authorized capital, the names and residential addresses of the officers and directors, the name and address of the registered agent for the corporation and the names and addresses of all stockholders who hold ten percent or more of the capital stock shall be provided. If the application is on behalf of a limited liability company, the date of organization, the state in which organized, a copy of the operating agreement required by the state to qualify as a limited liability company, the amount of paid-in capital, the amount

Sec. 6-58. Forms and process.

(a) *Contents.* Any person desiring to obtain a license or permit under the terms of this chapter shall make application therefor to the finance director or liquor control specialist, in writing, and under oath. Each question in the application blank shall be considered material to the issuance of the license, and each question in the application shall be answered in full by the applicant. The applicant shall provide:

- (1) The name and residential address of the applicant managing officer, and if the application is on behalf of a partnership, the names and residential addresses of all partners or any person who has a

- of authorized capital, the names and residential addresses of all the members and the name and address of the registered agent for the company shall be provided.
- (2) The place of birth of the applicant, and, if the applicant is a naturalized citizen, the date and place of naturalization.
- (3) The names and business addresses of the applicant's employers for a period of five years prior to the application.
- (4) A statement of whether or not the applicant has been convicted of a felony and whether or not the person is prohibited from holding a license under the provisions of RSMo 311.060.
- (5) A description and address of the proposed premises for which a license is sought.
- (6) A statement of whether or not the proposed premises are within 300 feet of a school or church.
- (7) The class of the license for which application is made.
- (8) A statement of whether or not any distiller, wholesaler, winemaker, brewer, or supplier of coin-operated, commercial, manual or mechanical gambling devices, or the employees, officers or agents thereof, has any financial interest in the retail business of the applicant for the sale of alcoholic beverages, and whether or not the applicant, either directly or indirectly, will borrow or accept from any person equipment, money, credit or property of any kind, except ordinary commercial credit for liquor sold.
- (9) A complete description of the plans, specifications and fixtures in the applicant's proposed place of business, if the application is for a retail license; provided, however, that this shall apply only when application is for a new location or a change in the plans for specifications within a previously established location.
- (10) A statement that the applicant will not violate any city laws or ordinances, state laws or federal laws in the conduct of the business.
- (11) A comprehensive and informative statement, as the finance director or liquor control specialist, may deem necessary, to disclose the true ownership and management of the business.
- (12) A statement from the finance division of the city that the applicant has paid all taxes due the city, including all penalties and interest, or does not owe any taxes to the city.
- (13) Approval from the fire chief, planning and development director and the county health department stating that, with respect to the proposed location on the application, the applicant is in compliance with the respective codes.
- (14) An affidavit disclosing the name and residential address of any persons who may take part in the management and control of the business, whether directly or indirectly.
- (15) Any additional information which the finance director or liquor control specialist may reasonably require to be fully informed for consideration of the issuance of a license or permit.
- (b) *Criminal history reports and photographs.* Every applicant for a license under this chapter shall furnish to the finance director or liquor control specialist a copy of a state driver's license, or a passport if not a licensed driver, together with the application. If the applicant is a partnership, each partner that is an individual shall furnish a recent photograph. If the applicant is a limited liability company, each member that is an individual shall furnish a photograph. If the applicant is a corporation, the finance director or liquor control specialist, in their discretion, may make similar requirements of the officers, directors and shareholders holding more than a ten percent interest in the corporation. The finance director or liquor control specialist, or the police department shall obtain criminal history reports

or highway patrol background checks for each managing officer applicant, partner, and member of a limited liability company and shall charge each individual a fee in such amounts as shall be necessary to defray the cost of the city in obtaining criminal history reports for each individual.

(c) *Execution by applicant.* Application for a license under this chapter shall be made by the individual who is to be, in fact, actively engaged in the actual control and management of the particular beverage or establishment for which the license is sought.

(d) *Additional information for caterer's permit.* Applications for caterer's permits shall be filed with the finance director or liquor control specialist, at least ten calendar days prior to the scheduled function and the following shall accompany the application:

- (1) Description of location, with specific defined areas set forth.
- (2) Copies of contracts between the applicant and sponsor of the function, occasion or event and the contract between the applicant and the person controlling the premises upon which the function, occasion or event is to take place.
- (3) Any other information pertinent to the application.

(e) *Priorities for issuance to new applicants.* Priority shall be given to new applicants for licenses under this chapter on the basis of the time the application is made. Any application which is incomplete for a period of 90 days after the date of filing with the finance director or liquor control specialist may be disapproved by the finance director or liquor control specialist. If an application is complete in all respects except for providing the finance director or liquor control specialist with certificates of compliance with building, fire, health and neighborhood codes, then the finance director or liquor control specialist may issue a letter notifying the applicant that the issuance of the license or permit will be approved contingent on providing the certificates to the finance director or liquor control specialist. The finance director or liquor control specialist may withdraw the letter if the finance director or

liquor control specialist determines that the delay in obtaining the certificates is a direct result of the applicant's action or inaction. An aggrieved applicant may file a written request for a hearing before the board as outlined in this chapter.

(Code 2005, § 10-11; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-11), 4-9-2013)

Sec. 6-59. Investigations.

The finance director or liquor control specialist shall immediately investigate the statements contained in each application for an original license. In the case of any renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, the finance director or liquor control specialist may investigate the statements contained in such renewal application or other request made by an applicant, as well as the character, background, associates, and source of loans for the business to be licensed. The suitability of the location and surrounding conditions of the proposed premises shall also be investigated. Notwithstanding any other provision of this chapter, the finance director or liquor control specialist may convene a meeting to receive information from the applicant and citizens on any application for an original license or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, as well as the character, background, associates, financial investments and indebtedness of the applicant.

(Code 2005, § 10-12; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-12), 4-9-2013)

Sec. 6-60. False or incomplete information in applications.

(a) *False statements.* It shall be unlawful for any person, in obtaining or attempting to obtain a license under this chapter, to make any materially false statements in the application for a license.

(b) *Incomplete information.* It shall be unlawful for any person to fail to make a complete disclosure of all pertinent and material information required in the application for a license. (Code 2005, § 10-13; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-61. Selection of applicant for license subject to numerical limitation.

(a) *Application procedure.* Whenever a license to sell alcoholic beverages subject to numerical limitation by this chapter shall be relinquished, abandoned, forfeited, revoked, or otherwise lost for any reason, except in the instance of the sale of an existing licensed business for the sale of alcoholic beverages, the provision for which license upon sale is provided in subsection (f) of this section, notice that such license is available for issuance shall be posted at city hall and advertised no less than once in a local newspaper of general circulation. The notice shall state that applicants must apply by delivering a completed application and associated documents in person at the office of the finance director on or before a date and time certain, and the newspaper publication shall be no more than 30 days nor less than 15 days prior to the last day upon which applications will be received. Application fees are to be submitted with the completed application and are non-refundable. Applicants must be qualified to receive a city liquor license in all respects, except that no applicant will be required in advance to possess a liquor license issued by the state division of alcohol and tobacco control.

(b) *Multiple applications.* No more than one application per business will be accepted. An application will be viewed as an additional application if an individual is listed on more than one application as a managing officer, member, partner, or owner or if an individual is determined by the city to have a vested interest in another submitted application. Multiple applications will be rejected for the random selection with the city accepting the earliest submitted application unless the city receives timely written notification to withdraw one or more of the multiple applications.

(c) *Submission time.* Applications will be date-stamped when received by the finance department with the associated application fees. Applications that are not received by the advertised day and time will be rejected.

(d) *Random selection process.* Ten business days after the advertised closing date and time for application submission, the city clerk shall select one applicant by a procedure of random selection from a list of applications that have been reviewed by the liquor control specialist as being qualified to receive a liquor license. The selected name will be given the opportunity to complete the application process. Applicants who are rejected as not meeting license requirements will be notified by letter or e-mail by the liquor control specialist before the actual date and time of the random selection. The remaining applicants will be likewise assigned an order of priority by the random selection process in the event the first-selected applicant fails for any reason to obtain the necessary license from the state division of alcohol and tobacco control or a city business license.

(e) *Time to become licensed.* The randomly selected applicant shall be issued the state required city letter of intent for a liquor license by the finance director. The selected applicant shall have 120 days from the date on the city letter of intent to apply and secure the requisite license from the state division of alcohol and tobacco control and the city business and liquor licenses. The city may extend the 120 day requirement for an additional 120 days if building construction that is in progress at the location specified on the application is not complete. Upon the issuance of a city business license, the granting of a license by the state, presentation of a copy of the state license to the finance director or designated liquor control specialist, and payment of all city fees, the city shall thereafter issue its liquor license to the selected applicant and the selected applicant shall immediately engage in business activities at the business location and remain open for the duration of the license period under the terms and provisions of this chapter.

(f) *Priority list of applicants.* Upon issuance of the city license, the conditional priority list of applicants shall expire, and unsuccessful applicants shall have no vested right or priority to receive a liquor license in the future.

(g) *No applicants.* In the event there are no applicants for an advertised liquor license, the license will not be re-advertised and will be issued to the next qualified applicant that applies for that type of license.

(h) *Minimum operation period.* An applicant that secures a liquor license through the random selection process must operate the business for a minimum of 12 months before the rights to acquire a liquor license at the licensed location can be sold to another business that meets the city's requirement for such a license.

(Code 2005, § 10-14; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2014-0126, § 2(10-14), 11-10-2014)

Sec. 6-62. Sale of a liquor licensed business.

(a) For the purposes of this chapter, a change in ownership takes place when a person acquires 50 percent or more of the interest in the licensed entity.

(b) Whenever an existing business selling alcoholic beverages licensed subject to the numerical limitation of this chapter shall be contracted for sale or sold, the purchaser of the existing business shall be given priority consideration to be issued the liquor licenses held by the seller, subject to the following:

- (1) The seller as current licensee will remain in active ownership and management control of the business and will remain responsible for the licensed premises until a license is issued to the buyer of the business by the finance director or liquor control specialist and the state division of alcohol and tobacco control.
- (2) Any proposed sale must be contingent upon city and state approval of the proposed buyer's application for licensing.

(3) The seller must notify in writing the finance director or liquor control specialist of the sale of the existing business. The notice must include the date of sale or closing on the transaction, and the identity of the purchaser in advance of the actual sale or closing of the transaction.

(4) The purchaser must apply to the finance director or liquor control specialist for consideration of the subject liquor license no later than ten days after the purchase of the seller's licensed business.

(5) The purchaser must provide within 30 days after purchase of the seller's existing business a copy of a state division of alcohol and tobacco liquor license to the finance director or liquor control specialist as proof that he has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes.

(6) Upon proof of ownership of the seller's business and compliance with the requirements of subsection (b)(5) of this section, the finance director or liquor control specialist, shall issue a city liquor license to the purchaser as the new licensee.

(c) If either the seller or purchaser of an existing liquor business whose license is subject to the numerical limitation of this chapter fails to comply with any of the requirements of subsections (b)(1) through (6) of this section, then the finance director or liquor control specialist, shall issue the subject liquor license surrendered by the seller upon the sale of the business in accordance with the procedures provided in section 6-61.

(d) No purchaser may operate the business purchased pursuant to this section without all of the permits or licenses required pursuant to this chapter, this Code, and the requirements and regulations of the state division of alcohol and tobacco control.

(e) In the event of the failure of the seller and purchaser to actually consummate the proposed sale or close on the transaction on the date provided to the finance director or liquor control specialist, pursuant to this section, then the licenses surrendered by the seller shall be reissued to the seller by the finance director or liquor control specialist.

(f) In the event of a default of the sales transaction by the purchaser, or if the business or transfer reverts for any reason to the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed, then the finance director or liquor control specialist, shall reissue the license surrendered by the seller pursuant to subsection (b) of this section to the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed upon written application to the finance director or liquor control specialist within ten days of the date of the default or reversion of the transfer to the seller. The seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed shall have 30 days within which to provide a copy of a state division of alcohol and tobacco control issued liquor license to the finance director or liquor control specialist as proof that he has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the seller, the seller's widow, widower, or next of kin, or the seller's remaining partner originally licensed fail to file the written application or a copy of a state division of alcohol and tobacco control issued liquor license with the finance director or liquor control specialist, as required, then the finance director or liquor control specialist shall reissue the licenses in accordance with the provisions of subsections (a) through (e) of this section.

(g) In the event of default by the purchaser or foreclosure of the mortgage lender or primary secured creditor pursuant to a security agreement, or if the business reverts for any reason to the mortgage lender or primary secured lender for the sales transaction of the business for which the liquor license was issued to the purchaser pursuant to subsection (b) of this section, or goes into court-appointed receivership, then the finance director or liquor control specialist, shall reissue the license surrendered by the seller pursuant to subsection (b) of this section to the mortgage lender or primary secured creditor pursuant to a security agreement upon written application to the finance director or liquor control specialist,

within ten days of the date of the default, foreclosure, receivership or reversion of the business or transfer to the mortgage lender or primary secured creditor or its management company. The mortgage lender, receiver, primary secured creditor or its management company shall have 30 days within which to provide a copy of a state division of alcohol and tobacco control issued liquor license to the finance director or liquor control specialist as proof that he has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the mortgage lender, receiver, primary secured creditor or its management company fail to file the written application or fail to provide a copy of a state division of alcohol and tobacco control issued liquor license with the finance director or liquor control specialist, as required, then the finance director or liquor control specialist shall re-issue the licenses in accordance with the provisions of section 6-61.

(h) In the event of assignment to a third party by the purchaser of the purchaser's rights, title, and interest to the business, or the sale, mortgage or transaction to the business for which the liquor license was issued to the purchaser pursuant to subsection (b) of this section, then the finance director or liquor control specialist, shall reissue the licenses surrendered by the seller pursuant to subsection (b) of this section to the third-party assignee upon written application to the finance director or liquor control specialist, within ten days of the date of the assignment. The third-party assignee shall have 30 days within which to provide a copy of a state division of alcohol and tobacco control issued liquor license to the finance director or liquor control specialist as proof that he has complied with the requirements set forth in this chapter, the provisions of this Code, and the regulations and requirements of the state division of alcohol and tobacco control, including the payment of all fees and taxes. Should the third-party assignee fail to file the written application or a copy of a state division of alcohol and tobacco control issued liquor license to the finance director or liquor control specialist, as required,

then the finance director or liquor control specialist, shall reissue the license in accordance with the provisions of section 6-61.

(Code 2005, § 10-14; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-14), 4-9-2013)

Sec. 6-63. Annual liquor license renewal; deadlines; late fees; appeal.

(a) *Renewed license required.* It shall be unlawful for a person to continue selling intoxicating liquor or have intoxicating liquor on the premises after June 30 should the applicant fail to obtain a city liquor license effective for the new liquor licensing year that starts July 1.

(b) *Renewal application.* Each applicant must make application on a renewal form as provided by the finance director or liquor control specialist. Applications must be complete, accompanied with all required documents, and signed by the managing officer for the liquor license establishment. Annual city liquor license fees must also be submitted with the renewal application.

(c) *Renewal application deadline.* All completed renewal applications and associated documents are to be submitted to the finance department accompanied with new year license fees on or before April 30. If April 30 falls on a weekend, the due date is the Monday after April 30. A late processing fee in the amount provided in the city fee schedule will be assessed to an applicant whose application is received or postmarked after that date.

(d) *Incomplete application, missing documents, missing fees, missing signature.* Renewal applications that need to be reprocessed because of missing information, missing documents, lack of proper signature, or lack of payment will be assessed in the amount provided in the city fee schedule to cover costs associated with application reprocessing.

(e) *License renewal not approved.* The liquor license establishment managing officer applicant will be notified by e-mail and letter within 30 days of receipt of the renewal application should it be

determined that the application fails to qualify for a license renewal. Reasons for non-renewal include, but are not limited to, the following:

- (1) Failure to submit a completed renewal application with associated fees and all required documents and information;
- (2) Failure to meet city minimum annual revenue requirements associated with the liquor license classification;
- (3) An ineligible managing officer;
- (4) Failure to have at least 85 percent of applicants' servers, cashiers, bartenders and managers complete the required liquor training.

(f) *Correction of deficiencies.* Renewal applicants will be allowed to attempt to rectify any correctable deficiency before July 1, the official date of license renewal or disapproval.

(g) *Failure to renew a city and state liquor license timely.* If the applicant has failed to secure city and state liquor licenses by July 1, the applicant will have to cease selling alcoholic beverages and remove all alcoholic beverages from the premises.

(h) *Right to apply for a new city liquor license.* An applicant who fails to successfully renew his license by July 1 may make application for a new city liquor license, pay all application processing fees associated with an original liquor application, pass a new background check and meet as a minimum all other application requirements as listed in section 6-57. For a restricted package liquor type, the lost license will not be advertised as being available to the public until at least 30 days after the timelines associated with the city appeal process have expired, assuming an appeal has been filed with the city clerk. In no event would a package liquor license lost through the renewal process be advertised as being available before August 15. The package liquor license holder who was not successful in renewing his license would have to be selected in the random selection process and meet the other requirements defined in sections 6-61 and 6-62 in order to be considered for a new package liquor license.

(i) *Appeal of non-renewal.* The applicant can appeal the decision of the finance director or liquor control specialist to not renew a liquor license by bringing the matter before the board by filing an appeal with the city clerk on or before July 11 in a manner as defined in section 6-139. (Code 2005, §10-15; Ord. No. 2013-0047, § 1(10-15), 4-9-2013)

Secs. 6-64—6-80. Reserved.

**ARTICLE IV. QUALIFICATIONS,
ISSUANCE AND TERM**

Sec. 6-81. Issuance and term.

The finance director or liquor control specialist is authorized to issue a license, as described in this article, to persons qualified by the state division of alcohol and tobacco control, provided such person shall comply with the following requirements:

- (1) *Compliance with applicable regulations.* No license shall be issued by the finance director or liquor control specialist, unless the applicant has complied with all city codes, including but not limited to, those set forth by this chapter and state regulations and has paid the liquor license fees. No license shall be issued by the finance director or liquor control specialist, unless the applicant has been issued a license by the state division of alcohol and tobacco control authorizing sales of liquor under provisions consistent with or substantially similar to those found within this code.
- (2) *Term.* All licenses issued pursuant to this article shall be for one year and shall expire, unless otherwise renewed, on June 30 of each year.
- (3) *Move of business to different location.* All licenses issued by the finance director or designated liquor control specialist shall be issued to a specific business location and address and shall not be transferable to a different location. Applications for a business license and liquor license for the

new location must be completed and submitted along with payment of related application and license fees.

- a. For the new location, the business must be in compliance with all city codes and state regulations before licenses are issued. For businesses subject to the numerical limitation of this chapter, the licenses at the old location are automatically voided on the day the business is licensed and opens for business at the new location.
- b. For a planned move to a different location by a business subject to the numerical limitation of this chapter, the business must not relinquish control or sublet the original licensed premises until the business is re-licensed at the new location.
- (4) *Non-active businesses.* All such licenses shall be issued for purposes of a business as defined in this article, and shall not be issued to a non-active business, or, if issued, shall be automatically revoked if the business shall fail to be opened to the public within 120 days or shall be closed to the general public for a continuous period of 120 days without a liquor sale. However, the finance director or liquor control specialist may extend such license for purposes of initial construction of building premises, or in the event of reconstruction, rebuilding, or repair of an existing business, for a reasonable amount of time.
- (5) *Lost or destroyed licenses.* If a license is lost or destroyed, the license will be replaced upon application therefor and payment of a replacement fee in the amount provided in the city fee schedule to the city by the licensee.
- (6) Pursuant to the provisions of RSMo 311.220, the finance director or liquor control specialist shall not fix an amount to be charged for any license issued under this chapter in excess of 1.5 times the

amount by law required to be paid into the state treasury for the issuance of a state permit or license.

(Code 2005, § 10-20; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-20), 4-9-2013; Ord. No. 2014-0126, § 2(10-20), 11-10-2014)

Sec. 6-82. Ineligibility.

No license or permit shall be issued to any applicant under this chapter that has failed to:

- (1) Pay any obligation due the city, including tourism and sales tax, personal property tax, or water/sewer bill, or any license tax, fee or assessment owed to the city; or
- (2) Comply with any lawfully imposed building, health, safety or zoning code and/or ordinance.

(Code 2005, § 10-21; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-21), 4-9-2013)

Sec. 6-83. Proximity to church or school.

No license under this chapter shall be issued to any person for any establishment located within 300 feet of a school or church or other building primarily used as a place for religious worship, measured from the nearest point of the enclosing wall of the premises to be licensed to the nearest point of the exterior wall of the church, school or building, provided, however, that once a license has been issued, when a school, church or place of worship is established within the prohibited distance from the place of business licensed, the license shall not be thereafter denied for this reason.

(Code 2005, § 10-85; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-84. Certain individuals prohibited.

No license provided for by this chapter shall be issued to any individual except in conformity with the following:

- (1) That the individual is to be in fact an employee actively engaged in the actual control and management of the establishment for which a license is sought.

(2) That the individual is 21 years of age or over and a qualified voter of the state.

(3) That the individual is of good moral character, is not a felon, is current on his personal property taxes and is qualified to hold an alcoholic beverage license in the state, and that the person has never been the holder of an alcoholic beverage license or permit which has been revoked by the city or the state.

(4) That the individual is not disqualified under the provisions of the statutes of the state.

(Code 2005, § 10-22; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-22), 4-9-2013)

Sec. 6-85. Certain partnerships prohibited.

No license provided for in this chapter shall be issued to any partnership unless all members of the partnership are persons who would be eligible for licenses as individuals under the provisions of this chapter, and no license shall be issued to any partnership, any partner of which, has been the holder of a license or permit which has been revoked by the city or the state.

(Code 2005, § 10-23; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-86. Certain corporations prohibited.

No license provided for in this chapter shall be issued to any corporation except in conformity with the following:

- (1) That all the officers and directors of the corporation are persons of good moral character.
- (2) That the managing officer of the corporation is a person who is eligible for a license as an individual under the provisions of this chapter.
- (3) That the corporation has not been the holder of a license or permit which has been revoked by the city or the state.

(Code 2005, § 10-24; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-87. Certain limited liability companies prohibited.

No license provided for in this chapter shall be issued to any limited liability company except in conformity with the following:

- (1) That all the members of the company are persons of good moral character.
- (2) That the managing officer of the company is a person who is eligible for a license as an individual under the provisions of this chapter.
- (3) That the company has not been the holder of a license or permit which has been revoked by the city or the state.

(Code 2005, § 10-25; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-88. Prohibited interest in license prohibited.

No license for the sale of alcoholic beverages at retail or no other license shall be issued to any individual, partnership, limited liability company or corporation in which any distiller, wholesaler, winemaker, brewer or supplier of coin-operated commercial, manual or mechanical gambling devices, or employees, officers or agents thereof, or any felon, has any financial interest or has furnished, directly or indirectly, equipment, money, credit or property of any kind except ordinary commercial credit for alcoholic beverages.

(Code 2005, § 10-26; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-89. State permit and license required prior to issuance of city license.

Before the issuance of a license under the provisions of this chapter, the applicant shall furnish satisfactory proof to the finance director or liquor control specialist, that a permit and license has been issued by the state, under the provisions of RSMo chs. 311 and 312, provided that the city may issue a temporary catering license authorized under this chapter to a qualified eligible applicant before the state has issued a state catering license, same which shall not be valid for usage until such time as the state

division of alcohol and tobacco control has issued and delivered its catering license to the licensee. If the privileges authorized under any license issued by the state division of alcohol and tobacco control to a licensee holding a similar city license are terminated, all the privileges authorized under the city license shall also immediately terminate; and it shall be unlawful for the licensee to fail, neglect or refuse to surrender the city license to the finance director or liquor control specialist, upon proper notice by the finance director or liquor control specialist to the licensee. If the license surrendered to the finance director or liquor control specialist is related to the sale of liquor on Sunday, it may be returned to the licensee if the privileges under the state license have been restored to the licensee prior to the expiration of the city license, and provided that no other cause exists not to return the city license.

(Code 2005, § 10-27; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-27), 4-9-2013)

Sec. 6-90. License required for consumption on premises.

It is unlawful for any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a consumption of liquor license to permit the drinking or consumption of intoxicating liquor or nonintoxicating beer at the premises. (Code 2005, § 10-28; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2021-0091, § 2, 8-10-2021)

Secs. 6-91—6-111. Reserved.**ARTICLE V. ADMINISTRATION AND ENFORCEMENT****DIVISION 1. GENERALLY****Sec. 6-112. Records of licenses and permits.**

It shall be the duty of the finance director or liquor control specialist to keep a record of all licenses and permits issued to applicants under

this chapter, and of the suspension, revocation or other administrative actions taken with respect to said licenses and permits.

(Code 2005, § 10-30; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-113. Forms of applications, licenses and permits.

The finance director or liquor control specialist shall prescribe all forms of applications, licenses and permits in compliance with the provisions of this chapter, and all other forms as are necessary to carry out the provisions of this chapter.

(Code 2005, § 10-31; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-114. Authority of director to issue licenses and permits and make rules, regulations and orders.

The finance director or liquor control specialist is hereby authorized and empowered to issue licenses and permits provided for by this chapter for the manufacture or sale of alcoholic beverages, at wholesale or retail, and may issue the licenses to applicants who have complied with the terms of this chapter and have paid the necessary license or permit fees. The finance director or liquor control specialist shall have power to make reasonable policies and procedures as may be necessary and feasible, consistent with the provisions of this chapter.

(Code 2005, § 10-32; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-115. Inspection of licensed premises; impoundment of unlawful articles.

(a) The finance director, liquor control specialist or any member of the police department shall have the right, at any reasonable time, to inspect, and the licensee shall allow inspection, of any licensed premises and all portions of the buildings thereof, including all rooms, basements, outbuildings, passageways, closets, vaults, yards and attics and all buildings used in connection with the operations carried on under the license and which are in the possession, or control of the

licensee, and all places where the licensee may keep or store liquor, and to seize any and all objects which may appear to be in violation of any provisions of this chapter and hold in custody the objects as evidence until any matter pertaining thereto is finally adjudicated. The adjudication of a violation will include the determination of whether the object seized under this chapter is contraband. Upon the seizure, a receipt shall be given and, upon demand, if not forfeited, objects shall be returned to their lawful owner after the matter is finally adjudicated unless the objects are found to be contraband. Other than contraband, objects not claimed by their lawful owner within 90 days after final adjudication shall be deemed forfeited.

(b) If the objects seized are forfeited or found to be contraband, they shall be delivered to the police department for storage or disposal. All contraband and unclaimed objects that have not been delivered to the police department for disposal, to the extent allowed by law, shall be sold by the finance director or liquor control specialist at public or private auction semiannually. All funds derived from the sales shall be deposited into the city's general fund to be expended as directed by the board. The finance director or liquor control specialist shall have power to pay any fees required by the state or federal government as a result of the sale.

(Code 2005, § 10-33; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-116. Examination of books and records of licensees.

The finance director or liquor control specialist shall have the right to examine books, records and papers of each licensee or applicant for an original license or permit or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, or for the purpose of confirming food and liquor sales and to hear and determine complaints against any licensee or applicant for a license. For these purposes, the finance director or liquor control specialist shall have the power to issue subpoenas and all necessary processes to subpoena witnesses; to compel by subpoena duces tecum

the production of books, records, papers and other evidence; to administer oaths and to take testi-

mony; and to make findings of fact thereon and to report to the state supervisor of alcohol and tobacco control the results thereof; and may recommend to the state supervisor the suspension, revocation or cancellation of any license issued under the laws of the state. The finance director or liquor control specialist may request a hearing before the board to suspend or revoke any license granted under the terms of this chapter, for the failure of the licensee to comply with the provisions of this section.

(Code 2005, § 10-34; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-117. Denial, suspension or revocation of license or permit.

(a) *Grounds.* Whenever it shall be shown or whenever the finance director or liquor control specialist has knowledge that:

- (1) A licensee under this chapter has not at all times maintained an orderly place;
- (2) The licensee or any employee, agent or servant of the licensee has violated any of the provisions of this chapter;
- (3) The license issued under this chapter was obtained through materially false statements in the application for an original license or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business;
- (4) The licensee failed to make a complete disclosure of all pertinent information in the application for original license or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter;
- (5) The managing officer of the licensed establishment, since the issuance of the license, has ceased to be the person actually engaged in the active control and management of the particular establishment for which the license was issued and a replacement managing officer of the

licensed liquor establishment has not been appointed by the business and approved by the city within 30 days of the change;

- (6) Anything has occurred which would render the licensee or licensed premises ineligible or unsuitable for a license under the provisions of this chapter;

then the finance director or liquor control specialist shall, in the case of an application for an original license or the renewal or transfer of location of an existing license, or for change of ownership or change in management or control of the business under this chapter, disapprove the application, or may, in the case of an existing license issued under this chapter, request a hearing before the board to consider whether to suspend for a period not to exceed 90 days, or revoke, the license.

(b) *Effect of revocation.* Whenever any license shall be revoked under the terms and provisions of this chapter, the licensee shall not thereafter be eligible for any license issued under this chapter. In addition, no license will be issued to the spouse, children, stepchildren, parents, stepparents, son-in-law or daughter-in-law, employee or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked.

(Code 2005, § 10-35; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-35), 4-9-2013)

Sec. 6-118. Refusal to obey subpoena.

No person shall fail or refuse to obey all the terms and conditions of a subpoena issued by the finance director or liquor control specialist or board under this chapter and, upon conviction thereof, the person shall be punished as provided in this chapter.

(Code 2005, § 10-36; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-119. Temporary closing of premises.

Notwithstanding any other provision of this chapter, the finance director or liquor control specialist shall have power to close for a period

not to exceed 24 hours any premises which may be in the immediate area of a mob, riot, strike or any type of violence, actual or probable; provided, however, that he may not close a place under these circumstances without advising at the earliest possible time the city administrator or the mayor and board; and provided, further, that the finance director or liquor control specialist may not close the place for two or more consecutive 24-hour periods, under the emergency police powers of the finance director or liquor control specialist without approval of the city administrator or the mayor.

(Code 2005, § 10-37; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-120. Failure to close premises during suspension of license or closing order.

The licensee shall maintain a closed place during the time of any license suspension, either by city or state action, or closing order. In addition, the licensee shall also be subject to further suspension or revocation of their license as provided in this chapter for failure to remain closed. (Code 2005, § 10-38; Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 6-121—6-138. Reserved.

DIVISION 2. REVIEW BY BOARD OF ALDERMEN

Sec. 6-139. Required hearings and review of director's actions by board.

(a) If an application for an original license, a license renewal, transfer of location, change of ownership, change in managing officers or the location of the proposed premises under this chapter is disapproved by the finance director or liquor control specialist then the applicant may file with the city clerk a written request for a hearing before the board on the denial or decision affecting the applicant or license holder. The request is to be made by the applicant within ten days after notice of the finance director's or liquor control specialist's final decision. The request is to set forth the reasons the decision should be reversed.

The applicant, as the case may be, shall also serve a copy of said request on the finance director or liquor control specialist.

(b) In the case of action by the finance director or liquor control specialist seeking to suspend or revoke a license issued under this chapter, the finance director or liquor control specialist shall:

- (1) File with the city clerk a written complaint setting forth the reasons for seeking a suspension or revocation of the license, and requesting a hearing before the board to consider the action.
- (2) Serve a copy, leave a copy or by mailing by certified mail return receipt requested a copy of said request on the licensee personally or by leaving a copy at the licensed premises or by mailing a copy of the request to the licensee at his last known address.

(c) Upon the filing of a written complaint or request for a hearing before the board as provided in this chapter, made within the time specified in this article, the board shall, within 20 days after the receipt of the request, notify the finance director or liquor control specialist and all other parties of the date, time and place for the hearing. The date of the hearing shall not be less than 20 days from the date the request was filed.

(d) Hearing procedures shall include but not be limited to the following:

- (1) The applicant or licensee shall have full right to have counsel, to produce witnesses and to cross examine all witnesses who may appear. All proceedings in the hearings shall be taken down stenographically, or recorded mechanically or electronically, or by a combination thereof, and shall be transcribed whenever required by law. Subpoenas shall be issued by the finance director or liquor control specialist or board for any witness whose presence is desired at any hearing or proceeding before the board to suspend or revoke a license, or to issue or refuse a license or renewal thereof, and the subpoena may be served by any person designated by the finance director or liquor

control specialist or board, or by any member of the city police department. The subpoenas shall be served and return thereon shall be made in the same manner as is provided by law in civil suits in the circuit court of this state.

- (2) Witnesses may also appear voluntarily at the hearings and testify. Before testifying in any hearing or proceeding before the board, all witnesses shall be sworn or affirmed to tell the truth and nothing but the truth.
- (3) The board shall issue its decision in writing within 30 days following the conclusion of the hearing unless the parties agree to an extension which shall not exceed an additional 30 days.
- (4) The decision of the board shall include findings of facts and conclusions of law, wherein the board may dismiss the complaint, or suspend or revoke a license previously issued, or affirm or reverse the finance director's or liquor control specialist's decision. The board's decision shall be served upon all the parties in person or by certified mail to the party's last known address. If the board is not able to serve the decision notice upon a party in person or if any notice sent by mail is returned by the federal postal service, then the board shall cause the notice to be posted at the principal entrance of the business or facility, and the posting shall constitute valid service. No suspension, revocation, or denial shall become effective until ten days after the decision has been issued by the board. The board may stay enforcement of its decision for a period of time not to exceed 30 days to allow for the filing of an appeal of the decision.

(Code 2005, § 10-39; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-39), 4-9-2013)

Sec. 6-140. Bond.

The person filing a request for a hearing before the board, other than the finance director or liquor control specialist, shall post at the time the

request for hearing is filed, a cash bond in the amount of \$500.00 with the finance director to secure the costs of the review. A request for a hearing before the board without the required bond, shall not perfect an appeal. The board shall not have jurisdiction to conduct any hearing provided under this chapter unless a request for a hearing and the required cash bond are filed with the finance director or liquor control specialist, within ten days after notice of the finance director's or liquor control specialist's final decision. The finance director or liquor control specialist shall forward the bond to the finance director who shall deposit the cash bond in a separate fund known as "special deposits."

(Code 2005, § 10-40; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-141. Liability for costs.

In determining liability for payment of costs in any hearing before the board, the board shall charge all costs to the city if the decision of the finance director or liquor control specialist is reversed by the board. If, however, the board sustains any part of the finance director's or liquor control specialist's decision, then the board shall determine what part shall be paid by the city. If the board shall sustain the decision of the finance director or liquor control specialist in toto, then the entire cost of the hearing shall be paid by the applicant. The finance director shall withdraw the amounts of the costs assessed to the person filing the request for the hearing, if any, from the \$500.00 deposited in the special deposits fund, and transfer that amount to the general fund. If after costs assessed to the person filing the request for the hearing, if any, are paid, the remaining amount, if any, of the \$500.00 deposit shall be refunded to the person filing the request for the hearing. The cost of a transcript of a hearing before the board shall be paid by the party requesting the transcript.

(Code 2005, § 10-41; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-142. Judicial review of board decisions.

Following the issuance of a decision by the board including but not limited to suspending or

revoking a license, or approving or disapproving an application for an original license or the renewal or transfer of location of an existing license, or application for change of ownership or change in management or control of the business under this chapter, the licensee or applicant, or the finance director or liquor control specialist may seek judicial review in a manner provided by law. The method of judicial review of any decision of the board shall be as provided in RSMo ch. 536. (Code 2005, § 10-42; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-42), 4-9-2013)

Sec. 6-143. Informal disposition of contested cases.

Nothing contained in this chapter shall preclude the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.

(Code 2005, § 10-43; Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 6-144—6-164. Reserved.

ARTICLE VI. CONDUCT OF BUSINESS

Sec. 6-165. General requirements for all licensees.

(a) *Responsibility of licensee.* Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the provisions of this chapter or the regulations of the finance director or liquor control specialist.

(b) *Duty to report.* In the event that any licensee or an employee of the licensee knows or should have known that an unlawful or violent act has been committed upon or about the licensed premises, the licensee, or the employee, shall immediately report the occurrence to the police department. The licensee and his employees shall cooperate with any law enforcement authority, agents of the state division of alcohol and tobacco control, and the finance director or liquor control specialist during the course of any investigation into the occurrence.

(c) Licenses posted on premises.

(1) While doing any business during the time for which a city alcoholic beverage license has been granted, all licensees shall post and keep displayed the city, state, and federal licenses in a conspicuous place on the licensed premises so that any person visiting the premises may readily see the license, while the license is in effect. No licensee shall post the license or allow the license to be posted upon premises other than the premises licensed, or knowingly deface, destroy, or alter any the license in any respect.

(2) A licensee shall also keep prominently displayed on the licensed premises, at all times while the city alcoholic beverage license is in effect, all federal tax stamps and state sales tax licenses, and county licenses, if applicable, issued to the licensee or to the licensed premises.

(3) For purposes of this chapter, if alcoholic beverages are sold, stored, distributed or consumed on the premises, and a city alcoholic beverage license is not posted in the manner as provided by this section, it shall be *prima facie* evidence that the premises is not licensed.

(d) *Condition of premises.* All licensees shall at all times keep the licensed premises safe, clean and sanitary and in accordance with the applicable rules, regulations and ordinances of the city.

(e) *Telephone.* All licensees shall provide the number, including unlisted numbers, of any telephone of the business and for the managing officer used upon the licensed premises to the finance director or liquor control specialist, which numbers shall remain a part of the licensee's record. The licensee shall notify the finance director or liquor control specialist, within five days, of the change of any telephone number upon the licensed premises.

(f) Books and records.

(1) All licensees shall keep complete and accurate records pertaining to the business. The records shall include a complete and accurate record of all purchases and gross

sales of alcoholic beverages, prepared meals and food. The records shall include the names and addresses of all persons from whom alcoholic beverages are purchased, the dates, kinds and quantities of the purchases, and the dates and amounts of payments on account.

- (2) All licensees shall maintain on the licensed premises at all times a current record of licensee's employees, which shall list the name, address, social security number, job title or classification and date of employment for each employee, and which shall be made available for immediate inspection upon request of the finance director or liquor control specialist or any member of the police department.
- (3) A licensee shall also keep all files, books, records, papers, state, county or city licenses, federal tax stamps, accounts and memoranda pertaining to the business conducted by the licensee, and shall also keep all records required by the finance director or liquor control specialist. Upon request of the finance director, liquor control specialist and auditors, a licensee shall, within 48 hours, allow an inspection and audit to be made by the finance director or liquor control specialist, of the files, books, records, papers, state, county or city licenses, federal tax stamps and accounts and memoranda, and shall allow copies to be made and taken of them. All records required to be kept by law or by regulation of the finance director or liquor control specialist shall be kept and preserved for a period of three years from the date the record was made. A licensee shall establish and maintain a uniform system of bookkeeping and accounts, according to generally accepted accounting practices.
- (g) *Distribution of earnings or assets.* Any licensee, upon request of the finance director or liquor control specialist and for good cause, shall file within 30 days, an affidavit showing the payment, or other distribution of all earnings or assets and the name and address of all persons to whom distribution or payment was made.

Information furnished pursuant to this provision shall be confidential, except that it may be used for the purpose of administration and enforcement of liquor control laws and ordinances.

(h) *Alcohol education program participation.* All licensees shall require the managing officer of a licensed liquor establishment and any employee involved in the direct participation in retail sales of intoxicating liquor to participate in an alcohol education program once every two years. The alcohol education program is to be approved by the finance director or liquor control specialist, offered by the city, any organization, or by any business, prior to or within two months of employment of the employee and the licensee shall maintain a record of the employee's participation in such program.

(Code 2005, § 10-50; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2010-035, § 1, 3-23-2010; Ord. No. 2013-0047, § 1(10-50), 4-9-2013)

Sec. 6-166. Prohibited acts by all retail licensees.

(a) *Sales to minors or intoxicated persons.* No retail licensee, nor employee of the licensee, shall allow any alcoholic beverages to be sold, given or otherwise supplied upon the licensed premises to any person who is under of 21 years of age, or to a habitual drunkard, or to any person who is intoxicated or who is actually or apparently under the influence of alcoholic beverage.

(b) *Consumption by minors.* No retail licensee, nor employee of the licensee, shall allow any person under 21 years of age to consume alcoholic beverages upon the licensed premises.

(c) *Sale for off-premises consumption.* No retail licensee, nor employee of the licensee shall sell for off-premises consumption any glass bottle containing more than 30 ounces of malt liquor or nonintoxicating beer that is chilled or refrigerated to a temperature that is below room temperature of the licensed premises, except as otherwise permitted by state law and except as otherwise provided by section 6-178. No sale or purchase of product shall be permitted off the licensed premises.

(d) *Serving or delivering in vehicles.* No retail licensee, nor employee of the licensee, shall sell or serve any alcoholic beverage to any person while the person is operating or is a passenger in or on any motor vehicle except as otherwise provided by section 6-178. It shall be unlawful for the holder of any license authorized by this chapter to permit the sale of intoxicating liquor at retail, either in the original package or for consumption on the premises where sold, to supply, sell or permit to be sold any intoxicating liquor through any drive-up or walk-up window or facility where the customer or person receiving the intoxicating liquor is not required to enter the premises of the licensee, except as otherwise provided by section 6-178.

(e) *Prostitution.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any act of prostitution as defined by state law, including the solicitation for prostitution.

(f) *Unauthorized sale of property.* No retail licensee, nor employee of the licensee, shall allow any person to offer for sale or sell any personal property upon the licensed premises unless the sale of the property has been authorized by the licensee or the manager or person in charge of the licensed premises.

(g) *Disorderliness, indecency or obscenity.* Upon the licensed premises, no retail licensee, nor employee of the licensee, shall:

- (1) Fail to immediately prevent or suppress any violent quarrel or disorder, brawl, fight or any other act or conduct prohibited or declared to be unlawful by this chapter.
- (2) Allow language, conduct or songs calculated to provoke a breach of the peace, or obscene literature, entertainment or advertising material.
- (3) Disturb the peace by allowing entertainment and patrons to exceed normal sound level expectations of neighboring residents or business.
- (4) It shall be unlawful for any entertainer or performer to perform an obscene, indecent, immoral, lewd or lascivious dance in any establishment where a

license has been issued under this chapter. Any entertainer or performer who shall perform any dance in any such establishment which does not conceal the genitals, pubic region, anus, or areola shall be presumed to have performed such a dance in violation of this section and the owner or operator shall be presumed to have permitted the violation, said presumption which may be rebuttable.

- (5) Allow any person to be unclothed, or in less-than-opaque attire, costume or clothing, so as to expose to view human genitals, pubic region or pubic hair, or anus, areola, or any combination of the foregoing, or human male genitals in a discernibly erect state, even if completely and opaquely covered, except as otherwise provided by this chapter.
- (6) Allow the performance of any acts of sexual conduct, including actual, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact in an act of sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of the female; or any sadomasochistic abuse or acts including animals or latent objects in an act of apparent sexual stimulation or gratification, as the terms are defined by state law.
- (7) Allow the display of films or videotapes showing persons unclothed as described in subsection (g)(4) of this section, or allow the display of pictures, films, videotapes or other material depicting acts prohibited by subsection (g)(5) of this section.

(h) *Storing off licensed premises.* No retail licensee shall store any alcoholic beverage off or outside of the licensed premises unless written request therefor is filed with the finance director or liquor control specialist, and written approval is issued by the finance director or liquor control specialist; except that a licensee may store alcoholic beverages in a bonded warehouse or

central warehouse, if he has first notified the finance director or liquor control specialist in writing of his intention to do so.

(i) *Unlicensed beverages on premises.* No retail licensee, nor employee of the licensee, shall allow upon the licensed premises any alcoholic beverages except the types the licensee is licensed to sell upon those premises; provided, however, a consumer may bring upon the premises such quantities of the intoxicating liquor as may be consumed by the consumer and their guests, so long as the licensee does not take charge of the intoxicating liquor nor retain any of said intoxicating liquor upon the premises and during which time the licensee may charge a fee for uncorking or allowing the patron to consume their intoxicating liquor on the licensed premises.

(j) *Illegal drugs.* No retail licensee, nor employee of the licensee, shall possess, store, sell or offer for sale, give away, distribute or deliver any controlled substance or illegal drug or narcotic, as defined by state law, or similar statutes, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises.

(k) *Illegal gambling.* No retail licensee, nor employee of the licensee, shall participate or engage in illegal gambling or violate any federal or state laws in connection with gambling, upon the licensed premises, nor shall any licensee or employee allow any other person to engage in any of these acts upon the licensed premises. The operation or possession of any unlawful gambling device in or upon the premises where intoxicating liquor is sold, either in the original package or for consumption on the premises, shall be grounds for the revocation or suspension of the license and no licensee shall permit any illegal gambling device to be set up or used in or about such premises.

(l) *Illegally purchased alcoholic beverages.* No retail licensee, nor employee of the licensee, shall allow on or about the licensed premises any alcoholic beverage which he has purchased or secured in violation of any city ordinance, or local, state or federal law.

(m) *Entertainment on premises.* No retail licensee, nor employee of the licensee, shall allow on or about the licensed premises any form of entertainment unless written application therefor is filed with the finance director or liquor control specialist and written approval, which shall be liberally construed, is issued by the finance director or liquor control specialist.

(n) *Drink specials prohibited.* No licensee or employee of the licensee shall:

- (1) Advertise, promote or provide free beer or other intoxicating liquor as an enticement to visit or to stay at an establishment;
- (2) Offer for sale beer or intoxicating liquor of any type at less than the cost of the beer or liquor purchased by the licensee;
- (3) Provide for free, sell, offer to sell or deliver to any person an unlimited number of drinks containing beer or intoxicating liquor of any type during a set period of time for a fixed price; or
- (4) Encourage or permit on the licensed premises any game or contest which involves drinking or awarding any drinks containing beer or intoxicating liquor of any type during any 24-hour period.

(o) *Pouring drinks in person's mouth prohibited.* No licensee or employee of the licensee shall mix or pour, or permit to be mixed or poured, any intoxicating liquor directly into any person's mouth.

(Code 2005, § 10-51; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-51), 4-9-2013; Ord. No. 2024-0090, § 2, 10-22-2024)

Sec. 6-167. Hours, days of sale for all retail licensees.

(a) *Hours, days of sales.* No retail licensee, nor employee of the licensee, shall sell, give away or otherwise dispose of any alcoholic beverages or suffer the same to be done on or about the licensed premises:

- (1) Between the hours of 1:30 a.m. and 6:00 a.m. Monday through Saturday;

(2) Between the hours of 6:00 a.m. Sunday and 1:30 a.m. Monday unless the licensee shall possess a license authorizing sales on Sunday.

(b) *Sundays.* Sunday package liquor license holders cannot sell liquor in the original package between 1:30 a.m. Sunday and 6:00 a.m. on Sunday.

(c) *Special days.* When January 1, March 17, July 4 or December 31 falls on a Sunday, and on the Sundays prior to Memorial Day, 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 alcoholic beverages by the drink may be open for business and sell alcoholic beverages by the drink under the provisions of their current license starting at 9:00 a.m. until 1:30 a.m. Monday morning.

(Code 2005, § 10-52; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-52), 4-9-2013; Ord. No. 2024-0090, § 2, 10-22-2024)

Sec. 6-168. Closed place.

The premises of any licensee shall be a closed place with all doors locked and no persons upon the premises, on all days and at all times during which the sale of alcoholic beverages is prohibited by this chapter, or not permitted by the license, except under the following conditions:

- (1) If the license authorizing the sale of alcoholic beverages is held by a club, hotel or motel, the licensee may remain open if all alcoholic beverages previously dispensed to customers are removed from the customers, and all refrigerators, cabinets, cases, boxes and taps from which alcoholic beverages may be dispensed are and remain securely locked. The removal of alcoholic beverages from customers shall not apply to alcoholic beverages sold or served to guests in private guest rooms.
- (2) If the license authorizing the sale of alcoholic beverages is held by a restaurant where substantial quantities of food are served, the licensee may remain open for the purpose of serving food if all alcoholic

beverages previously dispensed to customers are removed from all customers, and all refrigerators, cabinets, cases, boxes and taps from which alcoholic beverages may be dispensed are and remain securely locked, and the finance director or liquor control specialist has been notified in writing of the extended opening at least 30 days in advance of the extension.

- (3) The licensee, or any employee of the licensee, may enter or remain upon the premises for a reasonable time period while actually engaged in cleaning, maintenance, or routine closing or opening activities.
- (4) The licensee, or any employee of or other person authorized by the licensee, may enter or remain upon the premises pursuant to and for the purposes of temporary work or construction upon a written request filed with the finance director or liquor control specialist and a permit granted by the finance director or liquor control specialist. The permit shall state the nature of the work or construction to be performed, the name of each person authorized to perform the work or construction and the days and hours for which the permit shall be valid.
- (5) The licensee, or any employee of or other person authorized by the licensee, may enter or remain upon the premises for purposes of providing security, upon a written request filed with the finance director or liquor control specialist, and a permit granted by the finance director or liquor control specialist. The permit shall state the name of each person authorized to enter or remain upon the licensed premises for that purpose.

(Code 2005, § 10-53; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-169. Possession of illegal liquor.

No person shall possess intoxicating liquor within the city unless the same has been acquired from some person holding a duly authorized license to sell same or unless the intoxicating

liquor is had or kept with the permission of the state supervisor of alcohol and tobacco control and the package in which the intoxicating liquor is contained and from which it is taken from consumption has, while containing intoxicating liquor, been labeled and sealed prepared and manufactured under the state law and regulations made thereunder. Nothing in this section shall be so construed as to prohibit the natural fermentation of fruit juices or to manufacture nonintoxicating beer or intoxicating liquor in the home for the exclusive use of occupants of the home and their guests, not to exceed quantities set forth by RSMo 311.055.

(Code 2005, § 10-80; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-170. Use of alcoholic beverage vaporizer or table tap dispenser.

(a) No licensee or employee shall sell, deliver or give away any alcoholic beverage for dispensation by means of an alcoholic beverage vaporizer. No licensee or employee shall purchase, possess or use an alcoholic beverage vaporizer on the licensed premises, or any area related to the licensed business over which the licensee exercises control or for which the licensee is responsible. No licensee or employee shall allow or permit any customer or person to bring, keep, maintain, or use an alcoholic beverage vaporizer on the licensed premises, or any area related to the licensed business over which the licensee exercises control or for which the licensee is responsible.

(b) No licensee shall install or use a table tap dispensing system to allow a patron to dispense beer or other alcoholic beverage at a table unless all patrons at the table are over the age of 21.
(Code 2005, § 10-88; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-88), 4-9-2013)

Sec. 6-171. Prohibited acts on sales-by-drink premises.

(a) Upon the licensed premises of a sales-by-drink licensee, no licensee, nor any employee of the licensee, shall:

(1) Allow alcoholic beverages to be brought into or upon the premises by customers,

provided however a consumer may bring upon the premises such quantities of intoxicating liquor as may be consumed by the consumer and their guests, so long as the licensee does not take charge of the intoxicating liquor nor retain any of said intoxicating liquor upon the premises and during which time the licensee may charge a fee for uncorking or allowing the patron to consume their intoxicating liquor on the licensed premises;

- (2) Allow any person to remove from the premises any alcoholic beverage provided for consumption on the premises, except as provided for in subsection (h) of this section;
- (3) Sell, give away or serve water, soda water, phosphates or any other kind of liquid to be used for the purpose of mixing intoxicating drinks, commonly referred to as "setups";
- (4) Allow any customer, while in or upon the premises, to pour into, mix with or add intoxicating liquor to water, soda water, ginger ale, seltzer, malt, phosphates or any other kind of liquid or other liquor;
- (5) Allow any person to drink or consume any alcoholic beverage directly out of any bottle, if the volume size of the bottle exceeds 16 ounces, or if the alcohol content of the beverage exceeds 15 percent, by volume;
- (6) Allow any employee directly participating in the sale of alcoholic beverages to consume any alcoholic beverage;
- (7) Allow any employee directly participating in the sale of alcoholic beverages to sit at any bar or table with any customer except for a reasonable period of time while actually engaged in taking a food or drink order;
- (8) Give away alcoholic beverage to any intoxicated customer;
- (9) Sell any alcoholic beverage at retail for less than the price paid at wholesale.

(b) No persons licensed pursuant to this chapter shall permit a public nuisance to exist on the licensed premises.

(c) No person shall offer for sale any malt liquor or other intoxicating liquor brewed by one manufacturer in substitution for another such brewer or manufacturer.

(d) It shall be unlawful to display in any street window or show window any intoxicating liquor, or any package, bottle, or container bearing the label or brand of any intoxicating liquor or nonintoxicating beer.

(e) No person shall misrepresent any fact, material or otherwise, in the process of obtaining a license from the city.

(f) No person shall violate any rule or regulation of the state division of alcohol and tobacco control.

(g) No person shall fail to close any business licensed during those hours for which sales are prohibited except as provided within this chapter.

(h) When unfinished bottles of wine may be carried out of a licensed establishment; wineries.

(1) Notwithstanding any other provision of law, it shall not be unlawful for the owner, operator, or employees of a business licensed under this chapter, to allow patrons to carry out one or more bottles of unfinished wine, nor shall it be unlawful for patrons of such restaurant bar to carry out one or more bottles of unfinished wine under the following conditions:

- a. The patron must have ordered a meal;
- b. The bottle or bottles of wine must have been at least partially consumed during the meal;
- c. The business licensed under this chapter must provide a dated receipt for the unfinished bottle or bottles of wine; and
- d. The business licensed under this chapter must securely reseal the bottle or bottles of wine and place

them in one or more one-time-use, tamperproof, transparent bags and securely seal the bags.

(2) Notwithstanding any other provision of law, including, but not limited to, section 6-5, no person who transports one or more bottles of unfinished wine which came from a business licensed under this chapter under the circumstances described in subsection (h)(1) of this section, in a vehicle, shall be considered to have violated any state law or local ordinance regarding open containers in vehicles so long as such person has in his possession the dated receipt from the business and the bottle or bottles of wine remain in the business-furnished, one-time-use, tamperproof, transparent bags with the seals intact.

(3) Notwithstanding any other provision of law, it shall be lawful for the owner, operator, or employees of a winery to allow patrons to carry out one or more bottles of unfinished wine and it shall be lawful for patrons of such winery to carry out one or more bottles of unfinished wine under the following conditions:

- a. The bottle or bottles of wine must have been at least partially consumed at the winery;
- b. The winery must provide a dated receipt for the unfinished bottle or bottles of wine; and
- c. The winery must securely reseal the bottle or bottles of wine and place them in one or more one-time-use, tamperproof, transparent bags and securely seal the bags.

(4) Notwithstanding any other provision of law, including, but not limited to, section 6-5, no person who transports one or more bottles of unfinished wine which came from a winery under the circumstances described under subsection (h)(3) of this section shall be considered to have violated any state law or local ordinance regarding open containers in vehicles so long as such person has

in his possession the dated receipt from the winery and the bottle or bottles of wine remain in the winery-furnished, one-time-use, tamperproof, transparent bags with the seals intact.

(Code 2005, § 10-54; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2021-0091, § 2, 8-10-2021)

Sec. 6-172. Seminude dancing.

(a) *Application.* No licensee shall allow seminude dancing upon the licensed premises unless the premises are properly zoned for such activity and written approval is issued by the finance director or liquor control specialist.

(b) *Standards of conduct, licensee.* No licensee, nor employee of the licensee, shall allow any person to perform any seminude dance upon the licensed premises unless the following conditions are met:

- (1) Any seminude dance must be performed upon a stage that is separated at every point by at least three feet from the nearest seated customer;
- (2) The stage must contain no less than 50 square feet of surface and be at least 18 inches above the immediately adjacent floor level;
- (3) The stage must be located at a place upon the licensed premises where any seminude dance is not visible from outside the premises.

(c) *Seminude dancer.* No person shall perform any seminude dance upon the licensed premises unless the following standards of conduct are met:

- (1) While performing a seminude dance, the dancer shall not display pubic hair, the anus, genitals or a pubic region, or any portion of the areola of the female breast;
- (2) The dancer may perform a dance for a customer or customers while not present upon the stage described by this subsection (c), but shall not intentionally touch any customer while performing a dance, and when not present upon the stage, the dancer shall not be unclothed, or in a

less-than-opaque attire, costume or clothing, so as to expose to view human genitals, pubic region or pubic hair, or anus, 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;

- (3) The dancer shall not receive any payment or gratuity from any customer unless the payment or gratuity is placed into the dancer's hand, under a leg garter worn by the dancer located at least four inches below the bottom of the pubic region, or on the stage;
- (4) No dancer shall dance with any customer;
- (5) No dancer shall knowingly touch any specified anatomical area of another person, or allow another person to touch any specified anatomical area of the dancer; or no dancer shall knowingly fondle or caress any specified anatomical area of another person, whether the area is clothed, unclothed, covered or exposed, or allow another person to fondle or caress any specified anatomical area of the dancer, whether the area is clothed, unclothed, covered or exposed.

(d) *Responsibility of licensee and dancer.* Any person performing as a seminude dancer on the licensed premises shall be construed to be an employee of the licensee for purposes of this section.

(e) *Standards of conduct; customer.* No customer shall knowingly or intentionally touch, fondle or caress any specified anatomical area of any dancer, whether the area is clothed, unclothed, covered or exposed.

(Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-173. Package sales licenses; prohibitions and requirements.

(a) No package sales licensee, nor employee of the licensee, shall permit any person to consume alcoholic beverages upon the licensed premises, provided that the licensee may allow wine malt

beverage and distilled spirit tasting on the licensed premises on the dates and at the times set forth in the state and city licenses allowing the licensee to do so on the licensed premises and provided that the licensee display the state and city licenses on the premises in the same manner required for other licenses and permits issued under this chapter.

(b) No package sales licensee, nor employee of the licensee, shall sell, dispense or give away any alcoholic beverages upon the licensed premises except in the original package.

(c) No malt liquor or nonintoxicating beer package sales licensee, nor employee of the licensee, shall possess or permit alcoholic beverages, other than those allowed for sale by the license, upon the licensed premises.

(d) A package sales licensee whose place of business remains open on days or during the hours when the sale of alcoholic beverages is prohibited shall, during the times as sale is prohibited, segregate alcoholic beverages in a storage space inaccessible to the public, or cover or enclose alcoholic beverages by means of a slip cover constructed from substantial material and secured in a manner whereby the public shall not have access.

(e) No package sales licensee, nor employee of the licensee, shall sell or give away any drug, or controlled substance to any person, provided that nothing in this section shall prohibit the licensee, any of its employees or any other person from possessing or using a drug, medicine or controlled substance in a lawful manner, provided that this shall not apply to a licensee lawfully doing business as a pharmacy duly licensed under state or federal law or a licensee with an average of 80 percent or more of its total gross receipts from non-alcohol and non-drug sales.

(Code 2005, § 10-56; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-56), 4-9-2013)

Sec. 6-174. Prohibited acts by customers or other persons upon the licensed premises.

(a) No customer or other person shall bring any alcoholic beverage upon the licensed premises of any licensee, except as otherwise authorized

by this chapter. This subsection shall not be construed to prohibit any of the acts described in section 6-171 in any private guest or dining room of a licensed hotel, motel, resort or club.

(b) No customer or other person shall remove from the licensed premises of a sales-by-drink licensee any alcoholic beverage provided for consumption on the premises, except as provided in section 6-171(h).

(c) No customer or other person shall consume any alcoholic beverage upon the premises licensed for package sales, unless a tasting license exists for the premises.

(Code 2005, §§ 10-1, 10-57; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-175. Orders or sales off licensed premises.

(a) No retail licensee, nor employee of the licensee, shall sell alcoholic beverages in any place other than that designated on or otherwise authorized by the license.

(b) No retail licensee, nor employee of the licensee, shall take any order off the licensed premises for the sale of alcoholic beverages at retail even though the orders are filled and delivery thereof made on the licensed premises.

(c) Exceptions.

(1) Nothing in this section shall be construed to prevent any hotel, motel or club from serving any alcoholic beverage to any guest in any private guest room, if the alcoholic beverage is served from a licensed premises within the hotel, motel or club, or from selling alcoholic beverages in a private guest room from a controlled access liquor cabinet system.

(2) Nothing in this section shall be construed so as to prevent a licensee who has been issued a temporary catering permit under the provisions of this chapter from furnishing alcoholic beverages and services at a location other than the licensed premises, pursuant to the permit.

(3) Nothing in this section shall be construed so as to prevent a retail licensee from

delivering alcoholic beverages in the original package or container to a location off or outside of the licensed premises, if:

- a. The delivery is received by a person to whom alcoholic beverages may be sold;
 - b. If the alcoholic beverages are ordered and paid for, in person, on the licensed premises;
 - c. The delivery is made during the hours and days of sale allowed for the licensee, as provided by section 6-167; and
 - d. The licensee has filed a written request with the finance director or liquor control specialist and received prior written permission from the finance director or liquor control specialist.
- (4) Nothing in this section shall be construed to prohibit to-go sales of intoxicating liquor at retail by the drink for off-premises consumption as provided for in section 6-178.

(Code 2005, § 10-58; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2024-0090, § 2, 10-22-2024)

(c) It shall be *prima facie* evidence, for purposes of this chapter, that any container on which the manufacturer's label sets forth an alcoholic beverage, or an alcoholic content, and on which the original seal is not broken, shall contain the alcoholic beverage or the alcoholic content set forth on the manufacturer's label.

(Code 2005, § 10-59; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-177. Wholesaler's sales and deliveries to retail alcoholic beverage licensees.

No wholesaler licensed under this chapter, nor employee of the licensee, shall sell to any person in the city or deliver alcoholic beverages of any kind to any premises in the city unless there is displayed prominently on the premises a city alcoholic beverage license for the current license year.

(Code 2005, § 10-60; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-178. To-go sales of intoxicating liquor at retail.

(a) Notwithstanding any provision of law or ordinance to the contrary, any person or business who is licensed by the State of Missouri to sell intoxicating liquor at retail by the drink for on-premises consumption may sell retailer-packaged alcoholic beverages to patrons in containers, filled on such premises by any employee of the retailer who is twenty-one years of age or older, for off-premises consumption if all the following requirements are met:

- (1) The container of the alcoholic beverage is rigid, durable, leakproof, sealable, and designed to prevent consumption without removal of the tamperproof cap or seal. A sealable container does not include a container with a lid with sipping holes or openings for straws;
- (2) The contents of each container do not exceed 128 ounces;
- (3) The patron orders and purchases a meal from the licensee simultaneous with the alcoholic beverage purchase. For purposes

Sec. 6-176. Contents of bottles, cans, containers; *prima facie* evidence.

(a) No retail licensee shall possess, give away or sell, upon the licensed premises, any alcoholic beverage that is not contained in or originally poured from any bottle or other container unless there is a manufacturer's label showing the existence of an alcoholic beverage or alcoholic content on the bottle or container.

(b) No retail licensee may bottle any alcoholic beverage from any barrel or other container nor may he refill or add any substance to the contents of any alcoholic beverage bottle from any barrel or other container, unless the licensee holds and is acting under the provisions of a microbrewery license.

of this subsection, a "meal" is defined as food that has been prepared on-premises;

- (4) The number of alcoholic beverages sold under this section by a licensee for off-premises consumption is limited to twice the number of meal servings sold by the licensee for off-premises consumption;
- (5) The licensee provides the patron with a dated receipt or an electronic record for the meal and alcohol beverages; and
- (6) The container is either:
 - a. Placed in a one-time-use, tamper-proof, transparent bag that is securely sealed; or
 - b. The container opening is sealed with tamperproof tape. For purposes of this subsection, "tamperproof" means that a lid, cap, or seal visibly demonstrates when a bag or container has been opened.

(b) Containers that are filled under subsection (1) of this section shall be affixed with a label or a tag that contains the name and address of the business that filled the container, in type not smaller than three millimeters in height and not more than 12 characters per inch, and states: "THIS BEVERAGE CONTAINS ALCOHOL".

(c) The filling of a container under this section shall be in compliance with Section 3-304.17(C) of the 2009 Food and Drug Administration Food Code.

(d) No provision of law, or rule or regulation of the division of alcohol and tobacco control, shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish containers that are filled under subsection (a) of this section to any person who is licensed to sell intoxicating liquor at retail.

(Ord. No. 2024-0090, § 2, 10-22-2024)

Secs. 6-179—6-207. Reserved.

ARTICLE VII. MINORS*

Sec. 6-208. Employment of minors and sales by minors.

Pursuant to RSMo 311.300, 11 CFR 70-2.140 and this chapter, licensees approved by the state supervisor of alcohol and tobacco control may employ minors under the following conditions:

- (1) Liquor by the drink licensees with less than 50 percent food sales may employ persons 18 through 20 years of age to work on the premises if the persons do not sell, assist in the sale, dispense, serve or deliver alcoholic beverages to any person.
- (2) Persons 18 through 20 years of age may be employed by liquor by the drink licensees who have more than 50 percent food sales to work on the premises as waiters. Minors so employed may serve and accept payment for alcoholic beverages, but may not mix or serve alcoholic beverages across the bar.
- (3) Persons 16 and 17 years of age may be employed by liquor by the drink licensees to work on the premises if they do not sell, assist in the sale of, dispense, serve or deliver alcoholic beverages to any person. Licensees employing persons 16 or 17 years of age under this subsection shall, prior to employing the minor, require his parents or legal guardian to give their written consent to the employment, in a manner and form approved by the finance director or liquor control specialist. In addition to placing the minor's name in the register of employees, the consent and proof of the minor's age shall be maintained on file by the licensee and shall be available for inspection, at any time, by the finance director, liquor control specialist or the police department during the minor's term of employment. An authentic birth certificate, hospital birth record, religious record or public school

***State law references**—Employment of minors, RSMo 311.300; furnishing to minors, RSMo 311.310; purchase or possession by minors, RSMo 311.325.

record shall be adequate proof of the minor's age. In an emergency, a minor may be employed, without the required consent, for a period not to exceed 48 hours.

- (4) Persons 18 through 20 years of age may be employed by original package liquor licensees with over 50 percent package liquor sales to work on the premises to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for and sack for carry-out alcoholic beverages, so long as there is an employee of licensee over 21 years of age upon the licensed premises during all hours of operation. Minors employed under this subsection may not deliver alcoholic beverages away from the licensed premises.
- (5) Persons 18 through 20 years of age may be employed by original package liquor licensees with less than 50 percent package liquor sales to work on the premises to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for and sack for carry-out alcoholic beverages if at least 50 percent of the gross sales made consists of goods, merchandise or commodities other than alcoholic beverages. Minors employed under this subsection may not deliver alcoholic beverages away from the licensed premises.

(Code 2005, § 10-70; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-70), 4-9-2013)

Sec. 6-209. Sales-by-drink premises; minors on premises.

No sales-by-drink licensee, nor employee of the licensee, shall permit a person under 21 years of age to enter or remain upon the licensed premises, except that this prohibition shall not apply to:

- (1) A sales-by-drink licensed premises, so long as no person is seminude or performs seminude dance on the premises, provided however that such establishment shall

not permit any person under the age of 21 years to be on the licensed premises after 12:00 midnight unless accompanied by a parent or lawful guardian;

- (2) A person between 18 and 21 years of age providing or assisting in providing entertainment upon the licensed premises;
- (3) A person accompanied by parent or lawful guardian, so long as no person is seminude or performs seminude dance on the premises; or
- (4) A sales-by-drink licensed premises, whose total alcohol sales is no greater than 50 percent of total gross sales, located on a golf course, in a bowling alley, or in a recreational-type business where the restaurant-bar is not the primary source of income for the business so long as no person is seminude or performs seminude on the premises.

(Code 2005, § 10-71; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-71), 4-9-2013; Ord. No. 2021-0091, § 2, 8-10-2021)

Sec. 6-210. Purchase or possession by minors.

- (a) It shall be unlawful for any person under 21 years of age to purchase alcoholic beverages.
- (1) No person under 21 years of age shall have either in his possession or on his person any alcoholic beverages, except for medical purposes only, administered by a duly licensed physician as provided under RSMo ch. 311.
- (2) No person under 21 years of age shall operate, ride or sit in any vehicle that contains any alcoholic beverages except when the minor is accompanied by a parent or lawful guardian.
- (3) No person under the age of 21 years shall purchase or attempt to purchase or have in their possession any intoxicating liquor or nonintoxicating beer.
- (4) Any minor who is visibly intoxicated, or who has a detectable blood alcohol content of more than 0.02 percent or more by

weight of alcohol in such person's blood shall be considered to possess alcohol by the consumption thereof.

(b) For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor or nonintoxicating beer to a person under the age of 21 years of age, a manufacturer-sealed container describing there is intoxicating liquor or nonintoxicating beer contained therein, need not be opened or the contents tested to verify that there is intoxicating liquor or nonintoxicating beer in such container.

(c) The alleged violator may allege that there was not intoxicating liquor or nonintoxicating beer 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 or nonintoxicating beer therein contains intoxicating liquor or nonintoxicating beer.

(Code 2005, § 10-72; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2009-080, § 1, 10-27-2009)

Sec. 6-211. Entrance on licensed premises.

No person under 21 years of age shall enter or remain on the licensed premises of any licensee issued under this chapter, except as otherwise provided by this chapter.

(Code 2005, § 10-73; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-212. Misrepresentation of age for purpose of obtaining alcoholic beverages.

It shall be unlawful for any person under 21 years of age to misrepresent his age or make a statement willfully about his age to anyone for the purpose of purchasing or in any way obtaining alcoholic beverages. Except as permitted by law, any person between 17 and 21 years of age violating the provisions of this section and upon conviction thereof shall be punished by a fine of not less than \$100.00. Any person under the age of 17 who shall represent that they have attained the age of 21 years of age for the purpose of purchasing, asking for in any way, or

receiving any intoxicating liquor or nonintoxicating beer, except as authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of RSMo ch. 211.

(Code 2005, § 10-74; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-213. Acquisition for minors.

It shall be unlawful for any person to obtain, convey, supply, make available or deposit alcoholic beverages in any place where the person knows, or by the exercise of reasonable care should know, that a person under 21 years of age is likely to come into possession of the alcoholic beverages, except that a parent, a legal guardian, or a duly licensed physician may obtain and supply alcoholic beverages to a person under 21 years of age for medical purposes only. Any person violating the provisions of this section and upon conviction thereof shall be punished by a fine of not less than \$100.00.

(Code 2005, § 10-75; Ord. No. 2008-100, § 1, 10-14-2008)

Sec. 6-214. Knowingly allowing minors to consume intoxicating liquor.

It shall be unlawful for any owner, occupant or other person or legal entity with the right to permit use and enjoyment of any property, except for a parent or guardian, to knowingly allow any person under the age of 21 years to consume intoxicating liquor on such property or to knowingly fail to stop any person under the age of 21 years from consuming intoxicating liquor on such property.

(Code 2005, § 10-76; Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 6-215—6-237. Reserved.

ARTICLE VIII. LICENSURE AFTER ANNEXATION OF PROPERTY

Sec. 6-238. Duty to obtain license upon annexation of property by city.

The finance director or liquor control specialist is authorized to issue to persons qualified

under this chapter and who hold a license issued by the state division of alcohol and tobacco control a license for any business which is annexed into the city after the passage of the ordinance from which this chapter is derived without regard to exceeding any numerical limitation of licenses set in section 6-31. Any and all such businesses so annexed shall, within ten days after notification by the city clerk of the effective date of the annexation, apply for such needed licenses from the finance director or liquor control specialist for the period of the year remaining until expiration of all licenses.

(Code 2005, § 10-90; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-90), 4-9-2013)

Sec. 6-239. Provisions for additional licenses.

(a) The provisions of section 6-31 notwithstanding, the finance director or liquor control specialist may issue such additional licenses permitting sale of intoxicating liquor in the original package so long as the finance director or liquor control specialist, determines, based upon data provided to him annually that the city's one-percent general fund sales tax receipts received from the state department of revenue have increased in such sufficient numbers in the previous calendar year so as to warrant additional licenses to be issued.

(b) Every \$561,951.00 increase in the city's annual one-percent general fund sales tax revenues adjusted \$10,000.00 annually to approximate inflation will represent an opportunity for the finance director to increase by one the number of intoxicating liquor in the original package liquor licenses and Sunday original package liquor licenses in excess of the restricted number of licenses authorized in section 6-31(b).

(1) The finance director or liquor control specialist will make a determination on January 31 each year of the maximum number of intoxicating liquor in the original package licenses and Sunday original package liquor licenses that may be issued and active at any one time during the year.

- (2) The maximum number of intoxicating liquor in the original package licenses and Sunday original package liquor licenses issued at any one time cannot exceed the whole number calculated by dividing the previous complete calendar year's one-percent city sales tax receipts received from the state department of revenue by the base number exclusive of rounding.
- (3) The base number used in the license calculation on January 31, 2013, is \$561,951.00. The base number for each succeeding year's calculation will be increased by \$10,000.00.
- (4) If the current number of issued and active restricted in number intoxicating liquor in the original package liquor licenses, equal or exceed the calculated number, no additional licenses over the current authorized level will be issued during the year. No current liquor license holder will be required to give up their liquor license in the event the calculated license number is smaller than the actual number of package liquor licenses already issued or is in the process of being issued.

(Code 2005, § 10-92; Ord. No. 2008-100, § 1, 10-14-2008; Ord. No. 2013-0047, § 1(10-92), 4-9-2013)

Sec. 6-240. Criteria for issuance of license.

(a) In considering whether to approve or disapprove an application for any license or sales permit under this chapter, including those set forth and provided for in section 6-239, the finance director or liquor control specialist shall determine whether the applicant is qualified and meets all requirements for the license and the finance director or liquor control specialist shall determine whether the approval of the license will be in the best interests of the locality involved.

(b) In making the determination of whether the approval of the license will be in the best interests of the locality involved, the finance director or liquor control specialist may consider:

- (1) Whether the proposed premises are within 250 feet of any residentially zoned district,

and, if so, whether the proposed licensed or permitted operation would cause a nuisance to or change in character of the residential area. In this context the finance director or liquor control specialist shall consider exterior lighting, noise, traffic and parking associated with the proposed premises or its patrons, as well as any other relevant characteristic of the proposed facility.

- (2) The type of entertainment, if any, proposed for the licensed premises, and whether the entertainment would be compatible with or detrimental to the locality involved.
- (3) Other factors which, due to the character of the licensed premises or of the locality involved, would be relevant to whether issuance of the license or permit would be in the best interest of the locality involved.

(c) The finance director or liquor control specialist may request any department or agency of the city to provide data, information, opinions or recommendations which will assist them in reviewing any application for a license. By way of example, and not as a limitation, the finance director or liquor control specialist may request city departments to provide him with the following information concerning the proposed premises:

- (1) Traffic flow, location of curb cuts for parking lots, and parking availability surveys.
- (2) Impact upon the community, neighborhood, surrounding environs, adopted area plans and comprehensive plans or development projects in the area.
- (3) Access for emergency vehicles and safety of the proposed location.
- (4) Potential impact of crime, disturbances and traffic related to density or location of licensed establishments upon nearby residential or commercial neighborhoods.
- (5) Adverse impact upon the health, safety and general welfare.

(6) Impact upon parks, boulevards or community centers within the vicinity.

(7) Applicable building codes, parking requirements and zoning restrictions.

(Code 2005, § 10-93; Ord. No. 2008-100, § 1, 10-14-2008)

Secs. 6-241—6-260. Reserved.

Chapters 7—13

RESERVED

Chapter 14

ANIMALS*

Article I. In General

- Sec. 14-1. Definitions.
Secs. 14-2—14-22. Reserved.

Article II. Animal Control

Division 1. Generally

- Sec. 14-23. Location of pens and coops.
Sec. 14-24. Keeping swine.
Sec. 14-25. Depositing carcass of dead animal.
Sec. 14-26. Migratory bird feeding.
Sec. 14-27. Authority of animal control officer or police officer to destroy certain animals.
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Sec. 14-31. Animal habitats to be clean and sanitary; inspections authorized.
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Division 2. Impoundment

- Sec. 14-63. Impoundment of animals in violation.
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Division 3. Dangerous and Potentially Dangerous Animals

- Sec. 14-91. Dangerous and/or potentially dangerous animals.
Secs. 14-92—14-112. Reserved.

Division 4. Permits Required for Certain Establishments and Events

- Sec. 14-113. Applicability to existing establishments.

***State law references**—Agriculture and animals, RSMo 261.010 et seq.; disposal of dead animals, RSMo 269.010 et seq.; animals restrained from running at large, RSMo 270.010 et seq.; strays, RSMo 271.010 et seq.; fences and enclosures generally, RSMo 272.010 et seq.; local option regarding fences and enclosures, RSMo 272.210; dogs and cats, RSMo 273.010 et seq.; local option dog tax, RSMo 273.040 et seq.; animal care and facilities licensing and regulation, RSMo 273.325 et seq.; adoption and purchase of animals from shelters and human societies, RSMo 273.400 et seq.; pet spay and neuter fund, RSMo 301.387; authority for municipal inspection of animals intended as food, RSMo 71.730; offenses against police animals, RSMo 575.350, 575.353; animal neglect and abandonment, RSMo 578.009; animal abuse, RSMo 578.012; impoundment of animal running at large, RSMo 578.016; keeping dangerous wild animals, RSMo 578.023.

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- Sec. 14-114. Permit required for commercial animal establishments, animal shelters, temporary animal events, temporary animal adoption events and pet shops; issuance.
- Sec. 14-115. Denial or revocation of permit.

ARTICLE I. IN GENERAL

Sec. 14-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Adopter is any person who is legally competent to enter into a contract and who is adopting or buying any animal from a releasing agency.

Adoption facility means any place or facility that is in compliance with its licensing authority that allows for the adoption of unwanted animals to the general public.

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

Animal adoption means the transfer of custody and/or control of any animal, for a fee or not, from any person or facility to another, and allows any person to take custody and or control of any animal as his own property. Provisions shall be made for the sterilization of all animals sold, released for adoption or purchased from any public or private shelter or animal control agency operated by a humane society, or by a city or county, or other political subdivision.

Animal at large means any animal not under the restraint of a person capable of controlling the animal and/or off the premises of the owner.

Animal occupancy permit means the annual permit issued to any establishment when it becomes a commercial animal establishment by providing for animal occupancy or handling on its premises for a continuing period of time for an animal exhibit or various animal exhibits and said occupancy is in compliance with the licensing authority rules.

Animal shelter means any facility which is used to house or contain animals, which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of a cruelty to animals, municipal agency, or other not for profit organization devoted to the welfare, protection, and

humane treatment of such animals, or a person whose primary purpose is to act as an animal rescue, to collect and care for unwanted animals or to offer them for adoption.

At large means off the premises of the owner and not on a leash controlled by some person physically able to prevent the dog or cat from escaping.

Auction means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any facility or place that is issued a permit, by its licensing authority to house and/or hold animals, exhibit animals, display animals, perform animal acts, shelter and/or harbor animals for commercial use, adoption and/or sale of animals. The term "commercial animal establishment" includes, but is not limited to, dog pounds, animal control facilities, humane animal shelters, pet shops, grooming facilities, animal auctions, horse riding schools or stables, horse-drawn carriages, zoological parks, circuses, boarding or breeding kennels, and performing animal exhibitions. The term "commercial animal establishment" does not include an individual who occasionally renders humane assistance or shelter in his home to any animal or their privately owned pets.

Dangerous and/or potentially dangerous animal means any and all of the following:

- (1) Any mammal, amphibian, reptile or fowl of a species which, due to size, vicious nature or other characteristic, would constitute a danger to human life, physical well-being or property, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves or wolf hybrids, apes, gorillas, monkeys of a species with an average adult weight in excess of 20 pounds, foxes, elephants, alligators, crocodiles and snakes which are poisonous or altered and now deemed venomous, or otherwise present a risk of

physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

- (2) Any animal having a disposition or propensity to attack or bite any person or animal without provocation.

Dangerous animal means any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning or training, has a known propensity to attack, bite, or injure human beings or domesticated animals or shows the potential to cause harm to any being.

Dogs, cats or ferrets means both male and female, whether spayed or neutered.

Exhibited animal means any animal, as defined by the licensing authority or the promulgated regulations, that is exhibited, put on display, used as a spectacle, performing act, labored or kept for any means other than personal pleasure as a pet.

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

Guard dog means any dog:

- (1) Trained by a certified trainer from an approved dog training school;
- (2) Used by a security company licensed by the city; or
- (3) That obeys specific obedience training commands under the control of a responsible party that will detect and warn its handler that an intruder is present in or near an area that is being secured.

Humane officer or animal control officer means any person designated by the state, the county, the city, or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of the state.

Kennel or cattery means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a

fee, or selling dogs and cats, or any premises having more than five dogs or cats over six months of age.

Licensing authority means any and all federal government, state government, county government and city government agencies that have regulating and licensing authority by promulgating any relative regulations, statutes, or guidelines, including, but not limited to, the U.S. Department of Agriculture, the Association of Zoos and Aquariums, the Missouri Department of Agriculture, the Missouri Department of Conservation, and all local municipalities.

Migratory bird means ducks, geese, pigeons and starlings, whether or not raised in captivity or which is a mutation or a hybrid of such species.

Owner means any person owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

Performing animal exhibition means any spectacle, display, act, or event, other than circuses, in which performing animals are used or animals are displayed.

Pet or companion animal means any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Pet shop means any facility, whether operating separately or in connection with another business where animals are bought, sold, exchanged, or offered for retail sale to the general public.

Pound or dog pound means a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals, which is licensed by the licensing authority referenced in RSMo ch. 273.

Public nuisance animal means any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens

other than their owners to enjoyment of life or property. The term "public nuisance animal" includes, but is not limited to, any animal that:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owner;
- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles;
- (5) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (7) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained;
- (8) Attacks other domestic animals; or
- (9) Has been found by the city, after notice to its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, welfare, and safety.

Releasing agency means any animal pound, shelter, humane organization, animal welfare society, society for the prevention of cruelty to animals, or animal control agency, whether public or private, that is regulated by a licensing authority, not including an individual person who occasionally renders humane assistance or shelter in his home to any animal.

Restraint means any animal secured by a leash or lead under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

Riding school or stable means any place that has available for hire, boarding, and/or riding instruction any horse, pony, donkey, mule, or

burro; or any place that regularly buys, sells, or trains such animals, including a racetrack, trotting track, or rodeo.

Temporary animal event means a public event (by itself or part of a larger event) which is sponsored by a bona fide nonprofit organization or a governmental organization, and is planned for a time of less than four days and includes animals in its event. Animals are either provided approved temporary housing at the event or are removed daily to their usual approved occupancy. The term "temporary animal adoption event" means adoption events by approved releasing agencies.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Wild animal means any living member of the animal kingdom, including those born or raised in captivity, except for the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

Wild dangerous animal means any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, bear, hyena, wolf, coyote, nonhuman primates, or dangerous or poisonous reptiles, and poisonous reptiles altered and now claiming to be nonpoisonous, or any deadly or dangerous or potentially dangerous reptile over eight feet long. The term "wild dangerous animal" also includes, but is not limited to, non-indigenous wildlife regulated by the USFW and indigenous wildlife regulated by the state department of conservation.

Zoological park means any facility operated by a person, partnership, corporation, or government agency, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals, which is accredited by the U.S. Department of Agriculture or the Association of Zoos and Aquariums.

(Code 1988, §§ 245.010, 280.010; Code 1996, §§ 275.010, 275.140; Code 2005, §§ 46-331, 46-371;

Ord. No. 87-31, § 1, 7-27-1987; Ord. No. 88-49, § 2, 4-11-1988; Ord. No. 90-30, § 1, 8-13-1990; Ord. No. 2007-052, § 1, 5-29-2007; Ord. No. 2009-010, § 1, 2-24-2009; Ord. No. 2018-0060, § 2, 6-12-2018)

Secs. 14-2—14-22. Reserved.

ARTICLE II. ANIMAL CONTROL

DIVISION 1. GENERALLY

Sec. 14-23. Location of pens and coops.

Any person who shall own, keep or maintain any of the following named fowls or animals on his own or leased premises, namely, chickens, ducks, geese, turkeys, pigeons, rabbits or other pet animals, and including swine, within the corporate limits of the city, shall conform with the following regulations. All pens, houses, and coops shall be located:

- (1) On the rear of the parcel or premises;
- (2) At least 40 feet from any front property line;
- (3) At least ten feet from any side property line; and
- (4) At least 20 feet from any side street property line.

(Code 1988, § 250.010; Code 1996, § 275.250; Code 2005, § 46-291; Ord. No. 84, § 2, 3-1-1926)

Sec. 14-24. Keeping swine.

It shall be unlawful and a violation of this article for any person to keep, maintain, or house any swine upon any parcel or tract of land containing less than five acres in an agricultural zone, and then only in such numbers as would not constitute a nuisance under the meaning of such word, or in any parcel, pen or building within 100 feet of any residence or business building within the corporate limits of the city. (Code 1988, § 250.020; Code 1996, § 275.260; Code 2005, § 46-292; Ord. No. 84, § 3, 3-1-1926)

State law reference—Authority to prohibit livestock, poultry at large, RSMo 79.400.

Sec. 14-25. Depositing carcass of dead animal.

No person shall deposit or leave the carcass, or any part thereof, of any dead animal in any part of the city.

(Code 1988, § 210.040; Code 1996, § 275.270; Code 2005, § 46-293; Ord. No. 22, § 8, 9-22-1913)

Sec. 14-26. Migratory bird feeding.

(a) No person shall feed or cause to be fed any migratory birds in areas designated as "no feeding zones."

(b) Upon recommendation from the police department, the city administrator may designate specific no feeding zones on public property.

(c) Any commercial property may be designated a no feeding zone upon request of the owner.

(Code 2005, § 46-294; Ord. No. 2006-072, § 1, 5-8-2006; Ord. No. 2018-0060, § 2, 6-12-2018)

Sec. 14-27. Authority of animal control officer or police officer to destroy certain animals.

It shall be the duty of the animal control officer or police officer, upon finding any animal in the city contrary to the provisions of this article, to destroy any such animal if such animal cannot be safely taken up and impounded or is rabid or injured to the extent that the destruction of such animal would be merciful.

(Code 1988, § 245.110; Code 1996, § 275.100; Code 2005, § 46-340; Ord. No. 87-31, § 11, 7-27-1987)

Sec. 14-28. Animals disturbing the peace.

No person shall keep any animal which, by howling, barking, baying, yelping, or running at large, shall disturb the peace of the neighborhood.

(Code 1988, § 245.130; Code 1996, § 275.110; Code 2005, § 46-341; Ord. No. 89-13, § 1, 4-24-1989)

Sec. 14-29. Rabies immunization.

(a) It shall be unlawful for any dog, cat or ferret owner to knowingly keep, harbor or maintain any dog, cat or ferret six months of age

or more within the corporate limits of the city, unless the owner maintains a current vaccination against rabies for their dog, cat or ferret by a licensed veterinarian. The veterinarian giving such vaccination shall issue to the owner a rabies tag with the veterinarian's name and contact information along with a rabies tag number.

(b) The owner shall cause any dog, cat or ferret to wear a rabies tag.

(Code 1988, § 245.030; Code 1996, § 275.030; Code 2005, § 46-333; Ord. No. 87-31, § 3, 7-27-1987; Ord. No. 2009-010, § 1, 2-24-2009)

Sec. 14-30. Animals at large prohibited.

(a) It shall be unlawful for any owner to permit any animal to suffer or run at large in the city.

(b) Any animal that has strayed from but then returned to the private property of its owner may be seized or impounded. However, if the owner is present, in lieu of impoundment, a citation for running at large may be issued.

(Code 1988, §§ 225.020, 245.050; Code 1996, §§ 205.180, 275.050; Code 2005, §§ 46-335, 58-95; Ord. No. 20, § 2, 9-22-1913; Ord. No. 87-31, § 5, 7-27-1987; Ord. No. 95-90, § 2, 8-28-1995)

State law references—Animals restrained from running at large, RSMo 270.010 et seq.; strays, RSMo 271.010 et seq.; fences and enclosures generally, RSMo 272.010 et seq.; local option regarding fences and enclosures, RSMo 272.210; dogs prohibited from running at large, RSMo 322.020.

Sec. 14-31. Animal habitats to be clean and sanitary; inspections authorized.

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

(b) Animals shall be properly restrained or enclosed sufficiently to prevent their running at large.

(c) Enclosures shall be species-specific and of a design that provides for sanitary drainage and public safety.

(d) Feed shall be stored in a ratproof, flytight building, box, container, or receptacle.

(e) Animal waste is the responsibility of the animal owner. It shall be collected as frequently as necessary to maintain a sanitary condition and disposed of in a verminproof, flytight container.

(f) The police department may at any time inspect, or cause to be inspected, any premises and issue such order as may be necessary to carry out the provisions of this section. No person shall deny access for inspections during reasonable hours.

(Code 1988, § 280.040; Code 1996, § 275.170; Code 2005, § 46-375; Ord. No. 90-30, § 4, 8-13-1990; Ord. No. 2018-0060, § 2, 6-12-2018)

Sec. 14-32. Animal abuse.

(a) Prohibited.

(1) No person shall:

- a. Cruelly overwork any animal;
- b. Cruelly drive or work the animal when unfit for labor;
- c. Abandon the animal to die;
- d. Beat, ill-treat, torment or cause injury or unnecessary pain to any animal;
- e. Carry, or cause the animal to be carried, moved or kept in or upon any vehicle in a cruel or inhumane manner;

f. Impound or confine, or cause to be impounded or confined, in any place any animal or creature and fail to supply the animal during such confinement with the following:

1. A structurally sound, properly ventilated, sanitary, dry and weatherproof shelter suitable for the species, age and condition of the animal, which is free of litter or hazardous substances and objects and which provides access to shade

- from direct sunlight and regress from exposure to inclement weather conditions.
2. Wholesome foodstuffs suitable for the species which are provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in the animal considering its age and condition.
 3. Constant access or access at suitable intervals to a supply of clean, potable, unfrozen water, provided in a sanitary manner and in sufficient amounts for the species to maintain good health in the animal.
 4. Normal and prudent attention to the needs of the animal, including all necessary immunizations, sufficient exercise and rest to maintain good health and the provision to each sick or injured animal of the necessary veterinary care or humane death.
- (2) Nothing in this subsection (a) shall be construed so as to prevent a person from taking whatever action is necessary to defend himself, another individual or an animal when endangered by an animal attack, from engaging in standard acceptable farming methods, and other provisions as listed in RSMo 578.007.
- (b) *Removal and impoundment of animals.* Trained representatives from the Humane Society of the Branson Tri-Lakes Area, or any licensed veterinarian, may make recommendations to the police department or any duly authorized representative that animals be removed from private owners and placed in the custody of the police department or authorized representative in cases where the health or safety of the animal is, in the opinion of the police department or authorized representative, in immediate danger. The police department or representative, upon obtaining a court order, shall have the power to remove such animals, except from houses, without the consent of the owners, for the protection of the animals, and shall have the right to retain custody of such animals until the threat to the health or safety of the animals, in the opinion of the police department or representative, has been removed. Any expense incurred in such impoundment becomes a lien on the animal impounded and must be discharged before the animal is released from custody.
- (c) *Disposal of unredeemed animals.* Disposal of unredeemed animals shall be in accordance with current city ordinances.
- (d) *Revocation of permit.* If any person is found guilty by a court of violating this section, his permit to own, keep, harbor, or have custody of animals shall be deemed automatically revoked and no new permit may be issued.
 (Code 1988, § 280.050; Code 1996, § 275.180; Code 2005, § 46-376; Ord. No. 90-30, § 5, 8-13-1990; Ord. No. 2018-0060, § 2, 6-12-2018)
- Sec. 14-33. Abandonment of animals.**
 It shall be unlawful for any person to willfully abandon any animal within the city.
 (Code 1996, § 275.130; Code 2005, § 46-377; Ord. No. 95-90, § 4, 8-28-1995)
- Sec. 14-34. Disposition of animals biting or attacking persons.**
- (a) Any animal that bites, injures or attacks any person shall be placed under observation for the ten-day period immediately following the bite. A vaccinated animal shall be taken up and impounded at a veterinarian of the owner's choice or securely confined by the owner for a period of ten days. A nonvaccinated animal shall be taken up and impounded by the police department or authorized representative, in a contracted licensed kennel, or with a veterinarian of the owner's choice, for a period of ten days from the date of the bite.
- (b) If, within such period of ten days, such animal does not develop or manifest signs of rabies, it may be redeemed by the owner upon payment of a daily boarding fee, or the payment of usual and customary fees to the contractual

animal shelter or pound or to a veterinarian of the owner's choice. If such animal is not redeemed at the end of such ten-day period, it shall be humanely euthanized.

(c) If such animal does develop signs of rabies, it shall be the duty of the police department or authorized representative to cause such animal to be examined by a licensed veterinarian.

(d) Any other warm-blooded animal which bites, injures or attacks any person in which rabies is suspected may, upon order of the municipal court, be impounded and humanely euthanized, and the brain or structures submitted for rabies diagnosis.

(Code 1988, § 280.060; Code 1996, § 275.190; Code 2005, § 46-378; Ord. No. 90-30, § 6, 8-13-1990; Ord. No. 2018-0060, § 2, 6-12-2018)

Sec. 14-35. Harboring and sale of wild or dangerous exotic animals.

(a) *Prohibited animals.* No person shall, whether gratuitously or for a fee, keep, harbor, own or knowingly allow any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, bear, hyena, wolf, coyote, nonhuman primates, or dangerous or poisonous reptile to be in or upon their premises, or to be transported. The provisions of this section shall not apply to a properly maintained U.S. Department of Agriculture or Association of Zoos and Aquariums accredited commercial animal establishment, performing animal exhibit, zoological park, circus, scientific or educational institution, research laboratory or veterinary hospital.

(b) Wild nondangerous, dangerous and potentially dangerous animals. No person shall keep or permit to be kept any wild, nondangerous animal, or a dangerous or potentially dangerous animal, as a pet, except as permitted by the state department of conservation and the city.

(c) *Release of infant wild animals.* The licensing authority shall have the power to release or order the release to the state department of

conservation of any infant wild animal under temporary permit that is deemed capable of survival.

(Code 1988, § 280.070; Code 1996, § 275.200; Code 2005, § 46-379; Ord. No. 90-30, § 7, 8-13-1990; Ord. No. 2009-010, § 1, 2-24-2009; Ord. No. 2018-0060, § 2, 6-12-2018)

Sec. 14-36. Removal of animal waste.

The owner of every animal shall be responsible for the removal of any excreta deposited by his animal on public walks, recreation areas, or private property.

(Code 1988, § 280.090; Code 1996, § 275.220(A); Code 2005, § 46-381; Ord. No. 90-30, § 9, 8-13-1990)

Sec. 14-37. Exposure of poisons liable to be eaten by animals.

No person shall expose any known poisonous substance, whether mixed with food or not, so that such substance shall be liable to be eaten by any animal, and it shall be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substance.

(Code 1988, § 280.090; Code 1996, § 275.220(B); Code 2005, § 46-382; Ord. No. 90-30, § 9, 8-13-1990)

Secs. 14-38—14-62. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 14-63. Impoundment of animals in violation.

It shall be the duty of the animal control officer or persons authorized, finding any animal in the city contrary to the provisions of this article on view, to take such animal, and confine the animal in the city animal pound or facility designated as such.

(Code 1988, § 245.060; Code 1996, § 275.060; Code 2005, § 46-336; Ord. No. 87-31, § 6, 7-27-1987)

State law references—Impounding of dogs, RSMo 273.100; impoundment of animal found off custodian's property, RSMo 578.016; municipal authority to impound animals and impose lien for cost thereof, RSMo § 430.165.

Sec. 14-64. Notice of impoundment.

It shall be the duty of the animal control officer to post a notice describing every animal caught and impounded. He shall also notify the media from day to day of the animals so caught and impounded, giving them the same information as posted pursuant to this section.

(Code 1988, § 245.080; Code 1996, § 275.070; Code 2005, § 46-337; Ord. No. 87-31, § 8, 7-27-1987)

unclaimed for such ten consecutive days, upon compliance with the same provisions of this article as an owner.

(Code 1988, § 245.100; Code 1996, § 275.090; Code 2005, § 46-339; Ord. No. 2001-021, § 2(G), 2-26-2001; Ord. No. 2006-073, § 2, 5-8-2006; Ord. No. 2009-010, § 1, 2-24-2009; Ord. No. 2018-0060, § 2, 6-12-2018)

Secs. 14-67—14-90. Reserved.

DIVISION 3. DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS

Sec. 14-91. Dangerous and/or potentially dangerous animals.

(a) Dangerous and/or potentially dangerous animal.

- (1) Any animal with the following characteristics shall be defined as having a dangerous and/or potentially dangerous nature or disposition: any animal which has inflicted severe or fatal injury upon a human being, or has killed a domestic animal without provocation, or has bitten a human being without provocation; or any animal which, when not provoked, chases or approaches persons on the streets, sidewalks, or any public or private property other than the property of the owner, in a menacing fashion, or any animal with a known propensity, tendency or disposition to attack human beings or other animals, and possessing the ability to cause serious injury.
- (2) No animal of a dangerous and/or potentially dangerous nature or disposition shall be allowed to attack any person or animal or cause annoyance to the neighborhood or persons using the public streets, or chase, worry or molest livestock, other dogs or children, or cause any damage or injury.
- (3) Following the issuance of a citation and filing of charges for violation under this section, and pending final disposition of such charges, upon receiving an affidavit from the police department or local govern-

Sec. 14-66. Claiming impounded animals.

(a) Within ten consecutive days after the impounding of any animal, the owner may redeem such animal during normal business hours, upon payment to the city of all expenses incurred by the city in the care, including veterinary care, of such animal. Such expenses shall include impound fees, housing, and boarding fees. No animal whose owner is a resident of the city shall be released unless the owner shall provide proof of a current rabies tag.

(b) If the owner of any animal impounded pursuant to the provisions of this article does not apply to the city and pay such fees as are provided in this section within ten consecutive days from the time the animal is confined at any contracted housing facility, the animal control officer is hereby authorized to dispose of such animal in the most humane manner possible and in keeping with the other provisions of this article; provided, however, that any competent person may select an animal which has been

ment that the animal is a dangerous and/or potentially dangerous animal and upon motion of the city attorney, the judge of the municipal court may order any of the following:

- a. The dangerous and/or potentially dangerous animal be seized and impounded at the owner's expense.
 - b. The dangerous and/or potentially dangerous animal be impounded past the ten-day rabies observation period.
 - c. The dangerous and/or potentially dangerous animal be impounded during the pendency of the charges and not be released while the charges are pending without an order of release from the municipal judge. If the owner requests in writing a hearing regarding the impoundment of the dangerous and/or potentially dangerous animal, such hearing shall be granted and held in accordance with due process procedures established for the municipal court, upon due notice.
- (4) If, upon violation and conviction of the provisions of this section relating to dangerous and/or potentially dangerous animals, it shall appear to the judge of the municipal court that it is necessary for the public safety and welfare that the dog concerned be euthanized, the judge shall so order and the animal control officer shall execute the order of the court.
- (5) If, upon violation and conviction of the provisions of this section relating to dangerous and/or potentially dangerous animals, it shall not appear to the judge of the municipal court that it is necessary for the public safety and welfare that the dangerous and/or potentially dangerous animal concerned be euthanized, and the court finds that the animal is of a dangerous and/or potentially dangerous nature or disposition, the court

may order that the dangerous and/or potentially dangerous animal be declared dangerous and/or potentially dangerous.

- (6) If any dangerous and/or potentially dangerous animal is determined to be dangerous and/or potentially dangerous, as described in this section, the owner of the dangerous and/or potentially dangerous animal shall have the following responsibilities related to the animal:
 - a. Any dangerous and/or potentially dangerous animal shall wear, at all times, a bright orange collar with a large brightly colored metal tag attached to the collar so the dog can be readily identified as a dangerous and/or potentially dangerous animal.
 - b. The owner or keeper shall notify the police department or law enforcement immediately if a dangerous and/or potentially dangerous animal is loose, unconfined, or missing, has attacked another animal or has attacked a human being.
 - c. The owner or keeper shall notify the police department within 24 hours if a dangerous and/or potentially dangerous animal has died or has been sold or given away. If the dangerous and/or potentially dangerous animal has been sold or given away, the owner or keeper shall provide the police department or law enforcement with the name, address and telephone number of the new owner if the animal is kept within the confines of the city limits, must comply with the requirements of this section.
 - d. While on the owner's property, a dangerous and/or potentially dangerous animal must be securely confined indoors or in a six-sided securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping.

- e. No dangerous and/or potentially dangerous animal may be kept on the porch, on the patio or in any part of the house or structure that would allow the animal to exit such building on its own volition.
 - f. The owner or keeper shall display a sign on all sides of his property that there is a dangerous and/or potentially dangerous animal on the property. This sign shall be visible and capable of being read from the public highway or thoroughfare from which the property can be entered.
 - g. A dangerous and/or potentially dangerous animal may be off the owner's premises if it is muzzled and restrained by a substantial chain or leash not exceeding six feet in length and under the control of a responsible person.
 - h. The owner or keeper of a dangerous and/or potentially dangerous animal shall register the court-ordered animal with the police department, providing proof that the owner or keeper of the animal has procured liability insurance in the amount of at least \$100,000.00, and is in compliance with the court order and all provisions of this section relating to the keeping of a dangerous and/or potentially dangerous animal.
 - i. It shall be unlawful for the owner or keeper of a dangerous and/or potentially dangerous animal within the city to fail to comply with the requirements and conditions set forth in this section. Any animal found to be the subject of a violation of this section may be, in addition to other penalties provided by this section, subject to immediate seizure and impoundment for a minimum of ten days or the time necessary for the owner or keeper to show compliance with this section, whichever is shorter.
 - j. In addition, the dangerous and/or potentially dangerous animal, if so ordered by the court, shall be destroyed in a humane manner.
- (b) *Guard dogs.*
- (1) No person shall own, keep, harbor, maintain or allow to be upon any premises occupied by him or under his charge or control any guard dog (for the purposes of this section defined as a dog not owned by a governmental unit, which dog is used to guard public or private property) without such dog being confined behind a fence from which it cannot escape, or within any part of a house or structure except when the windows are closed or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure, and such guard dog must not be used or maintained in a manner which, as determined by the animal control officer, endangers individuals on or off the premises guarded.
 - (2) Any guard dog, including law enforcement dogs, used in the city by virtue of such use is hereby declared to be subject to the license and rabies vaccination requirements of this article.
 - (3) It shall be the duty of the owner of all guard dogs residing in or used as such in the city to register such dog annually with the animal control officer.
- (Code 1988, § 245.130; Code 1996, § 275.120; Code 2005, § 46-342; Ord. No. 89-13, § 1, 4-24-1989; Ord. No. 2018-0060, § 2, 6-12-2018)

Secs. 14-92—14-112. Reserved.

DIVISION 4. PERMITS REQUIRED FOR CERTAIN ESTABLISHMENTS AND EVENTS

Sec. 14-113. Applicability to existing establishments.

This division is applicable to all existing animal establishments, acts, displays, and events, except that private homes which become kennels by this division or by annexation may keep the

present number of animals and not be subject to any zoning requirements as may be incurred by this division, provided all animals are permitted with the police department, that nonconforming use be registered with zoning, that minimum standards of health and sanitation are met, and that no new animals will be permitted without the kennel meeting all zoning, fire, building, and health codes as currently adopted by the city.
(Code 1988, § 280.100; Code 1996, § 275.230; Code 2005, § 46-372; Ord. No. 90-30, § 10, 8-13-1990; Ord. No. 2018-0060, § 2, 6-12-2018)

Sec. 14-114. Permit required for commercial animal establishments, animal shelters, temporary animal events, temporary animal adoption events and pet shops; issuance.

(a) No person shall operate a commercial animal establishment or animal shelter, or have or hold a temporary animal event or animal adoption event from any outdoor location without first obtaining a permit in compliance with this division.

(b) The licensing authority shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with provisions of this division and other applicable laws. The licensing authority may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.

(c) No person or entity shall operate a pet shop or any other facility or event where animals are bought, sold, exchanged, offered for retail sale or adoption to the general public without the required state department of agriculture pet shop license, and city business license.

(d) No person shall be issued a permit for a temporary animal adoption event without making provisions for the sterilization of all animals sold, released for adoption, or purchased from any public or private shelter or animal control agency operated by a humane society, or by city or county, or other political subdivision.

(e) The permit period shall begin May 1 and shall run for one year. Renewal applications for permits shall be made 30 days prior to and up to 60 days after May 1. Application for a permit to establish a new commercial animal establishment under the provisions of this division may be made at any time. Temporary animal events shall require a temporary permit from the police department, which is valid for four days. At the discretion of the licensing authority, temporary animal adoption event permit fees may be waived for nonprofit and governmental agencies.

(f) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his name upon application.

(g) No commercial animal establishment shall train any dog to be used as a guard or sentry dog without possessing a valid license. This section shall not apply to the city/county government or any of its agencies. The application for a guard or sentry dog training license shall state the name and address of the owner and trainer, the location of the facility, and the maximum number of dogs to be housed at the training facility.

(h) Every facility regulated by this division shall be considered a separate enterprise requiring an individual permit.

(i) All facilities shall be in compliance with zoning, building, fire, health, and other current codes as adopted by the city.

(j) Failure to obtain a permit before opening any facility covered in this division shall be considered in violation.

(Code 1988, § 280.020; Code 1996, § 275.150; Code 2005, § 46-373; Ord. No. 90-30, § 2, 8-13-1990; Ord. No. 2001-021, § 2(E), 2-26-2001; Ord. No. 2007-052, § 1, 5-29-2007; Ord. No. 2018-0060, § 2, 6-12-2018)

Sec. 14-115. Denial or revocation of permit.

(a) After an application is filed pursuant to section 14-114, the police department shall inspect the facility prior to issuing the permit. The police department may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this division, the

regulations promulgated by the licensing authority, or any law governing the protection and keeping of animals.

(b) Any person whose permit or license is revoked shall, within ten days thereafter, humanely dispose of or make suitable arrangements for all animals owned, kept, or harbored.

(c) It shall be a condition of the issuance of any permit or license that the police department shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for such inspection is refused, revoke the permit or license of the refusing owner.

(d) If the applicant has withheld or falsified any information on the application, the police department shall refuse to issue a permit or license or may revoke after issuance.

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

(f) Any person having been denied or revoked a license or permit may not reapply for a period of 30 days.

(Code 1988, § 280.030; Code 1996, § 275.160; Code 2005, § 46-374; Ord. No. 90-30, § 3, 8-13-1990; Ord. No. 2018-0060, § 2, 6-12-2018)

Chapters 15—17

RESERVED

Chapter 18

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

- Sec. 18-1. Definitions.
- Sec. 18-2. Fees.
- Sec. 18-3. Fee refunds.
- Sec. 18-4. Stop work orders.
- Sec. 18-5. Effect of conflict with other laws.
- Sec. 18-6. Footing and foundation permit.
- Sec. 18-7. Board of appeals.
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Article II. Building Codes

- Sec. 18-27. International Building Code.
- Sec. 18-28. International Existing Building Code.
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Article III. Electrical Code

- Sec. 18-47. National Electrical Code.
- Sec. 18-48. Withholding of utility connections.
- Sec. 18-49. ICC Electrical Code administrative provisions.
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Article IV. Mechanical Code

- Sec. 18-72. International Mechanical Code.
- Secs. 18-73—18-102. Reserved.

Article V. Residential Code

- Sec. 18-103. International Residential Code.
- Sec. 18-104. Adoption of appendices.
- Secs. 18-105—18-134. Reserved.

Article VI. Plumbing Code

- Sec. 18-135. International Plumbing Code.
- Secs. 18-136—18-153. Reserved.

Article VII. Property Maintenance Code

- Sec. 18-154. International Property Maintenance Code.
- Secs. 18-155—18-178. Reserved.

***State law references**—Authority of city to regulate construction of buildings, RSMo 77.500; authority to adopt technical codes by reference, RSMo 67.280; Indoor Clean Air Act, RSMo 191.765 et seq.; state standards for elevator safety and inspection, RSMo 701.350; state standards regarding water closets in certain facilities, RSMo 701.450; permits to move buildings across roads, RSMo 229.230 et seq.; municipal housing generally, RSMo 99.010 et seq.; inadequate and deficient housing as public nuisances, RSMo 441.500 et seq.; dilapidated property causing blight or substantial safety threat as public nuisance, RSMo 447.620; fire protection generally, RSMo 320.010 et seq.; authority for ordinances requiring conspicuous posting of street addresses for fire protection and emergency services purposes, RSMo 67.318.

BRANSON MUNICIPAL CODE

Article VIII. Swimming Pool and Spa Code

Sec. 18-179. International Swimming Pool and Spa Code.
Secs. 18-180—18-196. Reserved.

Article IX. Fuel Gas Code

Sec. 18-197. International Fuel Gas Code.
Secs. 18-198—18-217. Reserved.

Article X. Dangerous Buildings

Division 1. Generally

Sec. 18-218. Definitions.
Sec. 18-219. Purpose, scope and intent.
Sec. 18-220. Duties of inspectors.
Sec. 18-221. Duties of planning and development director.
Sec. 18-222. Dangerous buildings declared nuisances.
Sec. 18-223. Notice and order.
Sec. 18-224. Standards for repair, vacation and demolition.
Sec. 18-225. Notice to vacate; procedure and notice.
Sec. 18-226. Failure to comply with notice and order.
Sec. 18-227. Appeals from the administrative hearing officer.
Sec. 18-228. Enforcement of order of abatement; compliance.
Sec. 18-229. Enforcement of order; extension of time to perform work.
Sec. 18-230. Enforcement of order; interference with repair or demolition work prohibited.
Sec. 18-231. Performance of work of securing and repair, or securing and demolition by city; general provisions.
Sec. 18-232. Issuance of tax bill for cost of work.
Sec. 18-233. Insurance proceeds.
Secs. 18-234—18-263. Reserved.

Division 2. Methamphetamine Contaminated Structures

Sec. 18-264. Purpose.
Sec. 18-265. Applicability.
Sec. 18-266. Definitions.
Sec. 18-267. Assessment.
Sec. 18-268. Procedures for assessment, sampling and testing.
Sec. 18-269. Contamination levels.
Sec. 18-270. Decontamination.
Sec. 18-271. Post-decontamination sampling.
Sec. 18-272. Final action.

ARTICLE I. IN GENERAL

Sec. 18-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Addendum means any change to the original plan submitted for review.

Architectural supplemental instructions (ASI) means explanations, details, instructions, and manufacturers' cut-sheets.

(Code 2005, § 22-2; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2010-126, § 1, 11-23-2010; Ord. No. 2014-0075, § 2(22-1), 8-26-2014)

Sec. 18-2. Fees.

(a) *Exemption.* The Branson R-IV School District shall be exempt from any fee in this section.

(b) *Fees.*

(1) Shall be in the amount provided in the city fee schedule.

(2) Addendum fee:

a. Will be assessed for repeated comments from the city plan reviewers to the applicant due to an inadequate response to the comments of the plan reviewer.

b. Will be assessed for any change to the approved plan because of failure to follow the approved plan; changes in material; changes of the size, shape or footprint of the structure; or failure to follow Branson Municipal Code, International Code Council (ICC), and National Electrical Code (NEC).

c. Will not be assessed for:

1. The applicant's first response to comments from the city.
2. Architectural supplemental instructions required by the

building inspector or contractor for details in the approved plan.

3. Changes due to unforeseen conditions as determined by the planning and development director for those plans reviewed under the ICC Existing Building Code.

(3) Inspection fee:

a. An additional fee will be assessed for the following required re-inspections:

1. Work not ready for inspection at the time of request (i.e., not installed or constructed when inspector arrives on-site).

2. Inspection of work that has not been corrected.

3. Jobsite not accessible when contractor has control of access.

(i) First time: Warning.

(ii) Second and all future times: Reinspection fee will be assessed.

(c) *Certificate of occupancy.* A certificate of occupancy will not be issued until all fees are paid.

(Code 2005, § 22-2; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2010-126, § 1, 11-23-2010; Ord. No. 2014-0075, § 2(22-1), 8-26-2014; Ord. No. 2014-0107, § 2(22-1), 10-28-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018; Ord. No. 2018-0147, § 2, 11-13-2018; Ord. No. 2021-0154, § 2, 12-14-2021)

Sec. 18-3. Fee refunds.

The planning and development director is hereby authorized to adopt, prescribe and promulgate such policies and procedures with regard to refunds as deemed appropriate.

(Code 2005, § 22-3; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2013-0178, § 1, 11-26-2013; Ord. No. 2014-0075, § 2(22-2), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Sec. 18-4. Stop work orders.

(a) Upon notice from the code official that work is being done contrary to the provisions of this Code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be punishable as provided in section 1-13 of the Code.

(b) Any person who commences any work on a building, structure, or electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee in the amount provided in the city fee schedule.

(Code 2005, § 22-4; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2013-0178, § 1, 11-26-2013; Ord. No. 2014-0075, § 2(22-3), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Sec. 18-5. Effect of conflict with other laws.

In the event of any conflict between this chapter and the construction codes and fire regulations adopted by the city, the more restrictive or higher standard shall govern.

(Ord. No. 2014-0075, § 2(22-4), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015)

Sec. 18-6. Footing and foundation permit.

(a) Upon submittal to, and approval by all necessary city departments of the following items, a footing and foundation permit may be issued by the planning and development director:

- (1) Title page, including name and address, type of construction, use group and square footage;
- (2) Soil analysis report;

- (3) Grading and site utilities plan;
- (4) Engineered foundation plan and details, including structural calculations;
- (5) Floor plan with location of restrooms, sewer, water and electrical service connections;
- (6) Elevation plan; and
- (7) Should the permit application include a request for pouring the slab, additional plans for underground utilities shall be required.

(b) The footing and foundation permit shall be issued upon the payment of an additional plan review fee in the amount provided in the city fee schedule, submittal of a surety bond in the amount of \$10,000.00 or five percent of the construction cost, whichever is greater, and submittal of an entry authorization, signed by both the owner and the contractor.

(c) A footing and foundation permit shall only be issued on properties within the city limits.

(d) Upon issuance of the building permit and payment of the permit fee, the surety bond shall be released to the applicant.

(e) Processing shall be in accordance with approved policies and procedures established by the city administrator for the planning and development department.

(Ord. No. 2018-0098, § 2, 9-25-2018; Ord. No. 2021-0078, § 2, 7-27-2021; Ord. No. 2021-0154, § 2, 12-14-2021)

Sec. 18-7. Board of appeals.

The board of appeals was created pursuant to the authority of certain International Code Council Codes, as adopted by this chapter. Such board of appeals has the authority to hear and decide appeals, as described in this chapter, as well as the authority described anywhere else in this Code.

(Ord. No. 2020-0034, § 2, 3-10-2020)

Secs. 18-8—18-26. Reserved.

ARTICLE II. BUILDING CODES

Sec. 18-27. International Building Code.

(a) *Adopted.* The International Building Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in the office of the city clerk, is hereby adopted as the building code of the city with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section 101.1 Title: These regulations shall be known as the Building Code of the City of Branson, hereinafter referred to as "this code".

Section 109.2 Fee Schedule: See Article I of this chapter.

Section 109.4 Work commencing before permit issuance: See Article 1 of this chapter.

Section 109.6: Refunds. See Article I of this chapter.

Delete in its entirety Section 110.3.7: Energy efficiency inspections.

Section 111.3: Temporary Occupancy.

- a. The building official may issue a certificate of substantial completion and/or a temporary certificate of occupancy in accordance with this section.
- b. For the purpose of this section, "white box construction" means the construction of a shell structure, which will house two or more separate commercial tenants. White box construction consists of the architecture of the building, including the framework, the perimeter/exterior walls, the building core and columns, and other structural load bearing elements of the building with all tenant space completed to a shell condition with all

utilities and common and shared systems stubbed in and accessible for extension and connection. A working GFCI protected receptacle and sufficient lighting with control shall be provided.

- c. Certificate of substantial completion.
 1. Prior to the completion of all of the remaining requirements for a certificate of completion under the code, the building official may issue a certificate of substantial completion for a building or structure that is a white box construction, provided, that all of the following requirements have been satisfied:
 - i. All areas of the white box construction can be occupied safely for the purposes of tenant infill, which will be completed under a separate building permit for each tenant who is finishing a portion of the white box construction.
 - ii. The applicant for the certificate of substantial completion enters into an agreement, in a form acceptable to the city attorney and the building official, which establishes the applicant's duties and obligations related to completing all remaining requirements for a certificate of completion, which requirements shall be completed not later than one year from the issuance of the certificate of substantial completion.
 - iii. The applicant for a certificate of substantial completion provides a performance bond in an amount sufficient to complete all remaining requirements of certificate of completion. The amount of the bond shall be set at an amount equal to the finished construction costs as estimated and certified by a licensed design profes-

sional in the State of Missouri or as established by the 2015 International Building Code Building Valuation Data Table, published February 2015, whichever is greater.

2. Upon the completion of all of the remaining requirements for a certificate of completion under the code and pursuant to the agreement entered into under this section, the holder of a certificate of substantial completion shall submit a written application for a certificate of completion, which may be issued pursuant to section 111.2.

Section 114.4 Violation Penalties: See Chapter 1 of this Code.

Delete in its entirety *Section 115.1 Authority.*

Section 115.1 Authority. See Article I of this chapter.

Section 115.3 Unlawful Continuance. See Article I of this chapter.

Section 403.1 Applicability: The provisions of this section shall apply to all buildings having floors located more than 50 feet above grade level or more than five stories in height. All references, in other sections of this code, to the 75 feet height restrictions shall be made to read 50 feet or more than five stories in height.

Exception:

6. When a minimum of 25-foot clear, hard surfaced, fire lane is provided immediately adjacent to the structure for fire department vehicle access, then allowing a maximum height not to exceed 60 feet.

903.2.8.5 Use Group Change Exemption: See Article III of Chapter 42, Fire Prevention and Protection of this Code.

907.2.8.4 Use Group Change Exemption: See Article III of Chapter 42, Fire Prevention and Protection of this Code.

Delete in its entirety Chapter 13 Energy Efficiency.

Section 1612.3 Establishment of flood hazard areas. Insert: City of Branson, March 15, 2012.

(Code 1996, §§ 500.010, 500.020; Code 2005, §§ 22-31, 22-32; Ord. No. 96-094, §§ 500.010, 500.020, 12-2-1996; Ord. No. 99-793, § 1, 5-24-1999; Ord. No. 99-980, § 1, 10-25-1999; Ord. No. 2000-081, § 1, 5-8-2000; Ord. No. 2000-145, §§ 1, 2, 10-9-2000; Ord. No. 2001-026, § 1, 3-26-2001; Ord. No. 2004-151, § 1(500.010), (500.020), 11-8-2004; Ord. No. 2005-200, § 1, 11-14-2005; Ord. No. 2006-041, § 1, 3-27-2006; Ord. No. 2006-142, § 1, 9-25-2006; Ord. No. 2009-075, § 1, 10-13-2009; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2013-0178, § 1, 11-26-2013; Ord. No. 2014-0075, § 2(22-27), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018; Ord. No. 2024-0087, § 2, 10-8-2024)

Sec. 18-28. International Existing Building Code.

(a) *Adopted.* The International Existing Building Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section 101.1 Title: These regulations shall be known as the Existing Building Code of "The City of Branson", hereinafter referred to as "this code."

Section 108.2 Fee Schedule: See Article I of this chapter.

Section 108.4 Work commencing before permit issuance: See Article 1 of this chapter.

Section 108.6 Fee Refunds: See Article I of this chapter.

Section 113.4 Violation Penalties: See Chapter 1 of this Code.

Section 114.1 Stop Work Orders: See Article I of this chapter.

Delete *Section 707 Energy Conservation.*

Delete *Section 810 Energy Conservation.*

Delete *Section 907 Energy Conservation.*

Delete *Section 1107 Energy Conservation.*
(Code 2005, §§ 22-34, 22-35; Ord. No. 2004-151, § 8(500.130), (500.140), 11-8-2004; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-29), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Editor's note—Ord. No. 2018-0098, § 2, adopted, Sept. 25, 2018, repealed § 18-28 which pertained to footing and foundation permit and derived from Code 2005, § 22-33; Ord. No. 2004-066, § 1(500.025), adopted May 10, 2004; Ord. No. 2010-071, § 1, adopted June 22, 2010; Ord. No. 2014-0075, § 2(22-28), adopted Aug. 26, 2014; and Ord. No. 2015-0126, § 2, adopted Nov. 10, 2015. Similar provisions may be found at § 18-6. Subsequently, ordinance provisions renumbered former § 18-29 as § 18-28.

Secs. 18-29—18-46. Reserved.

ARTICLE III. ELECTRICAL CODE

Sec. 18-47. National Electrical Code.

(a) *Adopted.* The National Electric Code, 2017 edition, published by the National Fire Protection Association, a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section is hereby amended by substituting the following sections or portions of sections for those sections or portions of sections with corresponding numbers of the National Electrical Code, 2017 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Delete in its entirety *Section 410.36(g) Trees.*

Article 230-70 Service Disconnecting Means:

Delete in its entirety *Section 230.70(A)(1) Readily Accessible Location.*

Section 230.70 (A)(1) Readily Accessible Location. The service disconnecting means shall be installed at a readily accessible location outside of a building or structure, (A)(2) and (A)(3). This requirement shall apply when replacing an electric panel and when replacing a service disconnect not in a readily accessible location outside of a building or structure.

(Code 1996, §§ 500.060, 500.070; Code 2005, §§ 22-61, 22-62; Ord. No. 96-101, §§ 500.060, 500.070, 1-13-1997; Ord. No. 99-980, § 3, 10-25-1999; Ord. No. 2004-151, § 3(500.060), (500.080), 11-8-2004; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-47), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Sec. 18-48. Withholding of utility connections.

(a) It shall be deemed as lawful for the building official or his designated representative to withhold the approval and connection of any or all utilities pending correction of hazardous violations of the codes and ordinances of the City of Branson, even though the utilities might not be directly involved in said violation.

(b) Said utilities shall not be connected on new installations until approved, in writing by the building official.

(c) If the building official determines that the application for a utility connection is not to be granted, then the building official shall give notice to the person requesting the utility connection of the violation and an opportunity to request an informal meeting.

(d) Within ten days after the date of the notice, hold an informal meeting with the applicant informing the applicant of the basis upon which the decision was made and shall attempt to resolve the matter informally. After such informal meeting, the building official may reverse his/her decision or may reaffirm his/her

decision in writing. Thereafter, the applicant may request a public hearing by filing a written request with the building official within 15 days of the date of the building official's decision. At the public hearing, a hearing officer appointed by the board of aldermen shall hear the evidence, determine the facts upon the evidence presented at the hearing and render a decision.
 (Code 1996, § 500.080; Code 2005, § 22-63; Ord. No. 96-101, § 500.080, 1-13-1997; Ord. No. 99-980, § 3, 10-25-1999; Ord. No. 2004-151, § 3(500.080), 11-8-2004; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-48), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015)

Sec. 18-49. Reserved.

Editor's note—Ord. No. 2018-0098, § 2, adopted Sept. 25, 2018, repealed § 18-49, which pertained to ICC Electrical Code administrative provisions and derived from Code 2005, § 22-64; Ord. No. 2001-026, § 3, adopted 26, 2001; Ord. No. 2004-151, § 4(500.090), adopted Nov. 8, 2004; Ord. No. 2010-071, § 1, adopted June 22, 2010; Ord. No. 2014-0075, § 2(22-49), adopted Aug. 26, 2014; and Ord. No. 2015-0126, § 2, adopted Nov. 10, 2015.

Secs. 18-50—18-71. Reserved.

ARTICLE IV. MECHANICAL CODE

Sec. 18-72. International Mechanical Code.

(a) *Adopted.* The International Mechanical Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section 101.1 Title. These regulations shall be known as the Mechanical Code of "The City of Branson", hereinafter referred to as "this code."

Section 106.5.1 Work commencing before permit issuance: See Article 1 of this chapter.

Section 106.5.2 Fee Schedule. See Article I of this chapter.

Delete in its entirety *Section 106.5.3 Fee Refunds.*

Section 106.5.3 Fee Refunds. See Article I of this chapter.

Delete in its entirety *Section 108.4 Violation Penalties.*

Section 108.4 Violation Penalties. See Chapter 1 of this Code.

Section 108.5 Stop Work Orders. See Article I of this chapter.

Delete in its entirety *Section 606.1 Controls required.*

Section 606.1 Controls required. Air distribution systems shall be equipped with smoke detectors listed and labeled for installation in air distribution systems, as required by this section. A key switch mounted in an accessible and approved location will be required for test and reset. Duct smoke detectors shall comply with UL 268A. Other smoke detectors shall comply with UL 268.

(Code 1988, § 500.035; Code 1996, §§ 500.130, 500.140; Code 2005, §§ 22-91, 22-92; Ord. No. 96-103, §§ 500.130, 500.140, 1-13-1997; Ord. No. 99-980, § 4, 10-25-1999; Ord. No. 2001-26, § 4, 3-26-2001; Ord. No. 2004-151, § 6(500.130), (500.140), 11-8-2004; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-72), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Secs. 18-73—18-102. Reserved.

ARTICLE V. RESIDENTIAL CODE

Sec. 18-103. International Residential Code.

(a) *Adopted.* The International Residential Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in

the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section R101.1 insert City Of Branson

Delete in its entirety *Section R106.2 Site plan or plot plan.*

Section R106.2 Site plan or plot plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing the size and location of new construction and existing structures on the site, building sewers, water services, driveways, sidewalks, retaining walls, storm-water runoff and distances from parcel lines. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

Section R-108.2 Schedule of Permit Fees. See Article I of this chapter.

Section R108.5 Refunds. See Article I of this chapter.

Section R108.6 Work commencing before permit issuance: See Article 1 of this chapter.

Section R113.4 Violation Penalties. See Chapter 1 of this Code.

Section R114.1 Notice to Owner. See Article I of this chapter.

Table R301.2(1) Insert the following values in Table 301.2(1).

Ground snow load	15
Wind speed MPH	90
Seismic zone	B
Damage from weathering	Severe
Frost line depth	18 inches
Damage from termite	Moderate/heavy
Damage from decay	Slight/moderate
Winter design temperature	12 degrees Fahrenheit
Ice shield underlayment required	No

Delete in its entirety *Section R313.2 One-and two-family dwellings automatic fire systems.*

Delete in its entirety *Section N1101.5 Information on construction documents.*

Delete in its entirety *Section N1101.13 Compliance.*

Delete in its entirety *Section N1102.1.5 Total UA alternative.*

Delete in its entirety *Section N1102.2.1 Ceilings with attic spaces.*

Delete in its entirety *Section N1102.2.2 Ceilings without attic spaces.*

Table N1102.1.2 Amend the following values:

Climate Zone	Ceiling R-Value	Wood Wall R-Value	Frame R-Value
4 except Marine	38	13	

Delete in its entirety *Section N1102.3 Fenestration.*

Delete in its entirety *Section N1102.4.2 Testing.*

Delete in its entirety *Section N1102.4.3 Fenestration air leakage.*

Delete in its entirety *Section N1103.3.3 Duct testing.*

Delete in its entirety *Section N1103.3.4 Duct leakage.*

Delete in its entirety *Section N1104 Electrical power and lighting systems.*

Delete in its entirety *Section N1105 Simulation performance alternative.*

Delete in its entirety *Section N1106 Energy rating index compliance alternative.*

Delete in its entirety *Section N1108.1.1.4 Lighting.*

Delete in its entirety *Section N1108.1.2 Existing plus addition compliance.*

Delete in its entirety *Section N1111 Change of occupancy or use.*

Delete in its entirety *Section P2503.4 Building sewer testing.*

Section P2503.4 Building sewer testing. Gravity sewer test shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than a 10-foot head of water above the highest fitting connection in that section, or to the highest point in the completed system and maintaining such pressure for a period of 15 minutes and the system shall prove leak free by visual inspection or applying an air pressure of 5 psi and maintaining such pressure without introduction of additional air for a period of 15 minutes. Forced sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer and applying a pressure of 25 psi, and maintaining such pressure without introduction of additional air for a period of 15 minutes.

Delete in its entirety *Section P2602.1.*

Section P2602.1 General. The water distribution and drainage system of any building or premises where plumbing fixtures are installed shall be connected to a public water supply or public sewer.

Section P2603.5.1 Sewer depth. Insert: 18 and 18 (In both places)

Delete in its entirety *Section P2604.1 Trenching and bedding.*

Section P2604.1 Trenching and bedding. Where trenches are excavated such that the bottom of the trench forms the bed for the

pipe, solid and continuous load-bearing support shall be provided between joints. Bell holes, hub holes and coupling holes shall be provided at points where the pipe is joined. Where over-excavated, the trench shall be backfilled to the proper grade with compacted earth, sand, fine gravel or similar granular material. Piping shall not be supported on rocks or blocks at any point. Rocky or unstable soil shall be over-excavated by two or more pipe diameters and brought to the proper grade with suitable compacted granular material. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Delete in its entirety *Section P2604.3 Backfilling.*

Section P2604.3 Backfilling. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Section P2902.1 General. Connections to the public water supply shall meet or exceed the Missouri Department of Natural Resources Division 60-Public Drinking Water Program Chapter 11 Backflow Prevention Code of State Regulations and the City of Branson Cross Connection Control Ordinance.

Delete in its entirety *Section P2902.5.3 Lawn irrigation systems.*

Section P2902.5.3 Lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by a double check backflow prevention assembly or a reduced pressure principle backflow preventer. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

Delete in its entirety *Section P2903.9.1 Service valve.*

Section P2903.9.1 Service valve. Each dwelling unit shall be provided with an accessible main shutoff valve near the entrance of the water service. The valve shall be of a full-open type having nominal restriction to flow, with provision for drainage such as a bleed orifice or installation of a separate drain valve.

Additionally, a shutoff valve shall be installed on the water service outside of the water meter pit or vault.

Delete in its entirety *Section P2904.1 General.*

Section P2904.1 General. Where installed, residential fire sprinkler systems, or portions thereof, shall be in accordance with NFPA13D or Section P2904, which shall be considered equivalent to NFPA 13D. Section P2904 shall apply to stand-alone and multipurpose wet-pipe sprinkler systems that do not include the use of antifreeze. A multipurpose fire sprinkler system shall supply domestic water to both fire sprinklers and plumbing fixtures. A stand-alone sprinkler system shall be separate and independent from the water distribution system. A backflow flow preventer shall be required to separate a stand-alone sprinkler system from the water distribution system.

Section P3001.1 Scope. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Delete in its entirety *Section P3002.2 Building sewer.*

Section P3002.2 Building sewer. Forced main sewer piping shall conform to one of the standards listed in Table P3002.2. Building sewer service pipe shall meet or exceed specifications of polyvinyl chloride (PVC) plastic pipe in IPS 4 inch diameter schedule 40 with a solid wall meeting the ASTM Standards as listed in Table P3002.2.

Delete in its entirety *TABLE P3002.2 BUILDING SEWER PIPE.*

TABLE P3002.2 BUILDING SEWER PIPE

Cast-iron pipe	ASTM A 74, ASTM A 888, CISPI 301
Polyvinyl chloride (PVC) plastic pipe in IPS diameters, schedule 40; with solid wall.	ASTM D 2665, ASTM D 3034, ASTM F 1412, CSA B182.2, CSA B182.4
Stainless steel drainage systems, Types 304 and 316L	ASME A 112.3.1

Delete in its entirety *Section P3003.2 Prohibited joints.*

Section P3003.2 Prohibited joints. Running threads and bands shall not be used in the drainage system. Drainage and vent piping shall not be drilled, tapped, burned or welded.

The following types of joints and connections shall be prohibited:

1. Cement or concrete.
 - a. Except when connecting to a vitrified clay public main.
2. Mastic or hot-pour bituminous joints.
3. Joints made with fittings not approved for the specific installation.
4. Joints between different diameter pipes made with elastomeric rolling O-rings.
5. Solvent-cement joints between different types of plastic pipe.
6. Saddle-type fittings.
 - a. Except when connecting to a public main.

Section P3005.1 Drainage fittings and connections.

Exception:

- a. Short and long sweeps shall be prohibited on building sewers.

Delete in its entirety *Section P3005.2.2 Building sewers.*

Section P3005.2.2 Building sewers. Building sewers shall be provided with single-way cleanouts located every 50 feet or two-way cleanouts every 100 feet. All portions of the building sewer shall be reachable within 50 feet of a cleanout.

Delete in entirety *Section P3005.2.4 Changes of direction.*

Section P3005.2.4 Changes of direction. Cleanouts shall be installed at each fitting with a change of direction more than 45 degrees in the building drain and horizontal waste or soil lines. Where more than one change of direction occurs in a run of piping, only one cleanout shall be required for each 40 feet of developed length of the drainage piping.

Delete in its entirety *Section P3005.2.3 Building drain and building sewer junction.*

Section P3005.2.3 Building drain and building sewer junction. There shall be a cleanout within 5 feet of the junction of the building drain and the building sewer. The cleanout shall be outside the building wall and shall be brought up to the finished ground level. An approved two-way cleanout shall be permitted to serve as the required cleanout for both the building drain and building sewer.

Section P3005.2.8 Installation arrangement.

Exception:

3. Building sewers may use two-way cleanouts in an upright position.

Section E3406.2 Conductor Material. Conductors used to conduct current shall be of copper except as otherwise provided in chapters 34 through 43 of the IRC Part VIII - Electrical. For service entrance conductors and feeder conductors, Figures E3406.1, E3406.2, E3406.3 or E3406.4 shall apply based on the applicable scenario.

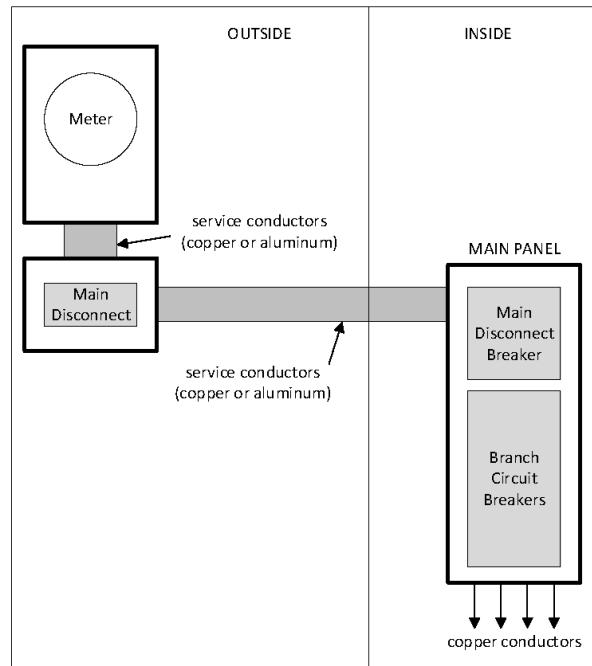


FIGURE E3406.1

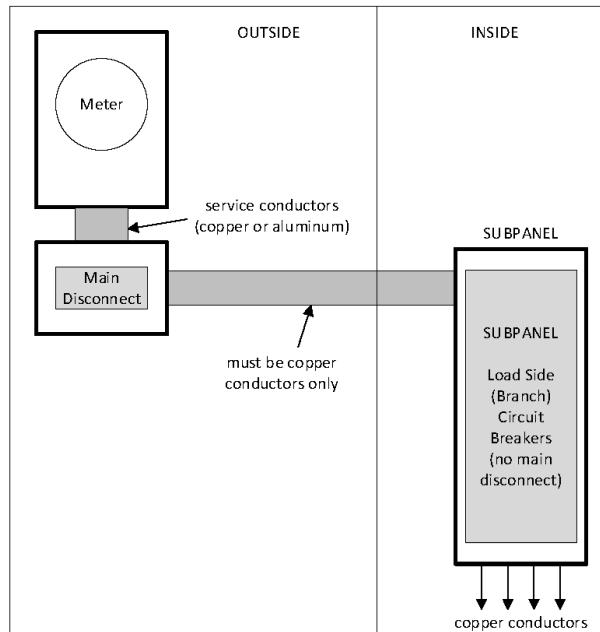


FIGURE E3406.2

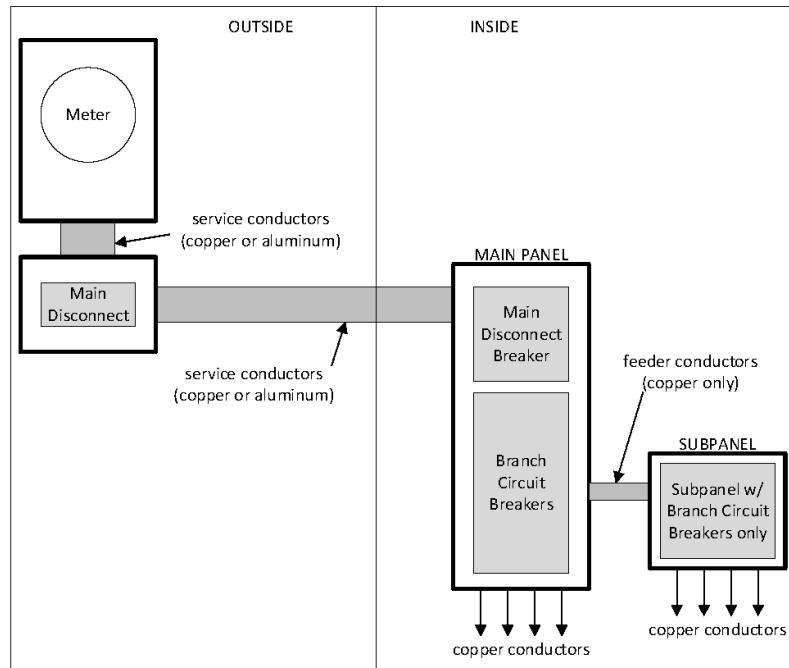


FIGURE E3406.3

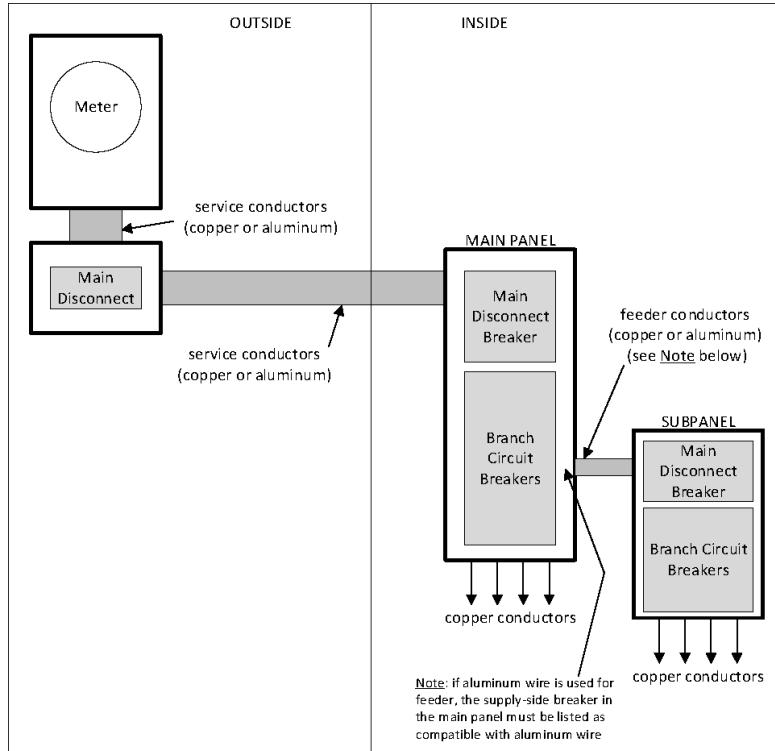


FIGURE E3406.4

Delete in its entirety *E3601.6.2 Service disconnect location.*

Section E3601.6.2 Service disconnect location. The service disconnection means shall be installed at a readily accessible location outside of a building. Each occupant shall have access to the disconnect serving the dwelling unit in which they reside.

Table E3705.1 Delete Aluminum and Copper-clad Aluminum conductors from table E3705.1, AWG sizes 2/0 and smaller. Delete Aluminum Grounding Electrode conductors from Table E3603.4, AWG sizes 2 and smaller.

(Code 1996, §§ 500.040, 500.045; Code 2005, §§ 22-121, 22-122; Ord. No. 96-100, §§ 500.040, 500.045, 1-13-1997; Ord. No. 99-980, § 2, 10-25-1999; Ord. No. 2001-026, § 2, 3-26-2001; Ord. No. 2001-123, § 1, 9-10-2001; Ord. No. 2003-020, § 1, 2-10-2003; Ord. No. 2004-151, § 2(500.040), (500.045), 11-8-2004; Ord. No. 2006-103, § 1,

7-10-2006; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-103), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018; Ord. No. 2020-0012, § 2, 1-14-2020)

Sec. 18-104. Adoption of appendices.

The following appendices shall, by adoption of the International Residential Code, 2018 edition, be considered as part of this code:

Appendix E, Manufactured housing used as dwellings

Appendix J, Existing buildings and structures

Appendix Q, Tiny houses
(Ord. No. 2018-0098, § 2, 9-25-2018)

Secs. 18-105—18-134. Reserved.

ARTICLE VI. PLUMBING CODE

Sec. 18-135. International Plumbing Code.

(a) *Adopted.* The International Plumbing Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section 101.1 Title. These regulations shall be known as the International Plumbing Code of the "The City of Branson", hereinafter referred to as "this code".

Section 106.6.1 Work commencing before permit issuance: See Article 1 of this chapter.

Section 106.6.2 Fee Schedule. See Article I of this chapter.

Delete in its entirety *Section 106.6.3 Fee Refunds.*

Section 106.6.3 Fee Refunds. See Article I of this chapter.

Delete in its entirety *Section 108.4 Violation Penalties.*

Section 108.4 Violation Penalties. See Chapter 1 of this Code.

Section 108.5 Stop Work Orders. See Article I of this chapter.

Delete in its entirety *Section 301.4.*

Section 301.4 Connections to water supply. Every plumbing fixture, device or appliance requiring or using water for its proper operation shall be directly or indirectly connected to a public water supply system in accordance with the provisions of this code.

Section 305.4 Freezing. Water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subjected to freezing temperatures unless adequate provision is made to protect such pipes from freezing by insulation or heat or both. Exterior water supply system piping shall be installed not less than 6 inches below the frost line and not less than 18 inches below grade.

Section 305.4.1 Sewer Depth. Insert: 18 and 18 (In both places)

Section 306.2 Trenching and bedding. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Section 306.2.1 Over excavation. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Section 306.2.2 Rock Removal. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Section 306.2.3 Soft load-bearing materials. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Section 306.3 Backfilling. Building sewers shall meet or exceed the City's Specifications as contained in the Code.

Delete in its entirety *Section 312.6 Gravity sewer tests.*

Section 312.6 Gravity sewer test. Gravity sewer test shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than a 10-foot head of water above the highest fitting connection in that section, or to the highest point in the completed system and maintaining such pressure for a period of 15 minutes and the system shall prove leak free by visual inspection or applying an air pressure of 5 psi and maintaining such pressure without introduction of additional air for a period of 15 minutes.

Delete in its entirety *Section 312.7 Forced sewer test.*

Section 312.7 Forced sewer test. Forced sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer and applying a pressure of 25 psi, and maintaining such pressure without introduction of additional air for a period of 15 minutes.

Sections 602.3, 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1. Delete in their entirety.

Delete in its entirety *Section 606.1 Location of full-open valves.*

Section 606.1 Location of full-open valves. Full-open valves shall be installed in the following location:

1. On the water distribution supply pipe at the entrance into the structure.
2. On the discharge side of every water meter outside of the meter pit or vault.
3. On the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one- and two-family residential occupancies.
4. On the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies.
5. On the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops.
6. On the water supply pipe to a gravity or pressurized water tank.
7. On the water supply pipe to every water heater.

Section 608.1 General. Connections to the public water supply shall meet or exceed the Missouri Department of Natural Resources Division 60-Public Drinking Water Program Chapter 11-Backflow Prevention Code of State Regulations and the City of Branson Cross Connection Control Ordinance.

Delete in its entirety *Section 608.16.5 Connections to lawn irrigation systems.*

Section 608.16.5 Connections to lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by double check backflow prevention assembly or a reduced pressure principle backflow preventer. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

Delete in its entirety *Section 701.2 Sewer required.*

Section 701.2 Connection to Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer.

Delete in its entirety *Section 702.3 Building sewer pipe.*

Section 702.3 Building sewer pipe.

Building sewer service pipe shall meet or exceed specifications of polyvinyl chloride (PVC) plastic pipe in IPS 4 inch diameter schedule 40 with a solid wall meeting the ASTM Standards as listed in Table 702.3.

Delete in its entirety *TABLE 702.3 BUILDING SEWER PIPE*

TABLE 702.3 BUILDING SEWER PIPE

Cast-iron pipe	ASTM A 74, ASTM A 888, CISPI 301
Polyvinyl chloride (PVC) plastic pipe in IPS diameters, schedule 40; with solid wall.	ASTM D 2665, ASTM F891, ASTM F148
Stainless steel drainage systems, Types 304 and 316L	ASME A 112.3.1

Section 706.3 Installation of fittings.

Exceptions:

2. Short and long sweeps shall be prohibited on buildings sewers.

Delete in its entirety *Section 707.1 Prohibited joints.*

Section 707.1 Prohibited joints. The following types of joints and connections shall be prohibited:

1. Cement or concrete joints.
 - a. Except when connecting to a vitrified clay public main.
2. Mastic or hot-pour bituminous joints.
3. Joints made with fittings not approved for the specific installation.
4. Joints between different diameter pipes made with elastomeric rolling O-rings.
5. Solvent-cement joints between different types of plastic pipe.
6. Saddle-type fittings.
 - a. Except when connecting to a public main.

Delete in its entirety *Section 708.1.2 Building sewers.*

Section 708.1.2 Building sewers. Building sewers shall be provided with single-way cleanouts located every 50 feet or two-way cleanouts every 100 feet. All portions of the building sewer shall be reachable within 50 feet of a cleanout. Cleanouts shall extend to finished grade with an appropriate cap.

Delete in its entirety *Section 708.1.3 Building drain and building sewer junction.*

Section 708.1.3 Building drain and building sewer junction. There shall be a cleanout within 5 feet of the junction of the building drain and the building sewer. The cleanout shall be outside the building wall and shall be brought up to the finished ground level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with section 708.7.

Delete in its entirety *Section 708.1.4 Changes of direction.*

Section 708.1.4 Changes of direction. Cleanouts shall be installed at each change of direction greater than 45 degrees in the build-

ing drain and horizontal waste or soil lines. Where more than one change of direction occurs in a run of piping, only one cleanout shall be required for each 40 feet of developed length of the drainage piping.

Section 708.1.8 Installation arrangement.

Exception:

3. Building sewers may use two-way cleanouts in an upright position.

Section 904.1 Roof Extensions. All open vent pipes that extend through a roof shall be terminated at least 18 inches above the roof, except that where a roof is to be used for any purpose in addition to weather protection, the vent extensions shall be run at least seven feet above the roof.

Section 1003.1 Where required. The City's Fats, Oils, and Grease Program shall be the minimum standard.

(Code 1996, §§ 500.160, 500.170; Code 2005, §§ 22-151, 22-152; Ord. No. 96-104, §§ 500.160, 500.170, 1-13-1997; Ord. No. 99-980, § 4, 10-25-1999; Ord. No. 2001-026, 3-26-2001; Ord. No. 2004-151, § 7(500.160), (500.170), 11-8-2004; Ord. No. 2005-060, § 1, 5-9-2005; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-135), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Secs. 18-136—18-153. Reserved.

ARTICLE VII. PROPERTY MAINTENANCE CODE

Sec. 18-154. International Property Maintenance Code.

(a) *Adopted.* The International Property Maintenance Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) The International Property Maintenance Code, 2018 edition is amended and revised in the following respects:

Section 101.1. Insert: "The City of Branson".

Delete in its entirety *Section 102.3 Application of other codes.*

Section 102.3. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the City of Branson adopted and amended International Code Council Codes and the Branson Municipal Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the International Zoning Code.

Section 103.5 Fees. See Article I of this chapter.

Section 104.7 Permits—When Required. An owner, authorized agent or contractor who desires or is required to repair, alter or Board up a structure that is regulated by this Code, or to cause such work to be done, shall first make application to the code official and obtain the required Boarding or Building permit for the work as per Article I of this chapter.

Section 104.7.1 Permits Not Required. Permits shall not be required for regular maintenance work on the site. Exemption from the permit requirements of this Code shall not be deemed to grant authorization for work to be done in violation of the provisions of this Code or other laws or ordinances of this jurisdiction.

Section 104.7.2 Application For Permit. Each application for a Building permit, with the required fee, shall be submitted to the planning and development director on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or an authorized agent. The permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall

contain such other information required by the code. Construction documents shall be furnished as required by the code.

Delete in its entirety *Section 106.4. Violation Penalties.* See Chapter 1 of this Code.

Delete in its entirety *Section 111 Means of Appeal.*

Delete in its entirety *Section 302.4 Weed Abatement.*

Delete in its entirety *Section 302.8 Motor Vehicles.*

Delete in its entirety *Section 302.9 Defacement of Property.*

Section 304.14 Insect Screens. Insert: January 1 to December 31.

Delete in its entirety *Section 602.2 Residential occupancies.*

Section 602.2. Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room Temperature of 68° F (20° C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Section 602.3 Heat Supply. September 1 to April 30.

Delete in its entirety *Section 602.3 Exceptions.*

Section 602.4 Occupiable work spaces. September 1 to May 31.

(Code 1996, §§ 500.100, 500.110; Code 2005, §§ 22-181, 22-182; Ord. No. 96-102, §§ 500.100, 500.110, 1-13-1997; Ord. No. 99-959, § 17, 10-11-1999; Ord. No. 2001-027, § 1, 3-26-2001; Ord. No. 2001-043, § 1, 4-23-2001; Ord. No. 2004-151, § 5(500.100), (500.110), 11-8-2004; Ord. No. 2006-074, § 1, 5-8-2006; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2011-011, § 1, 1-11-2011; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-154), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Secs. 18-155—18-178. Reserved.

ARTICLE VIII. SWIMMING POOL AND SPA CODE

Sec. 18-179. International Swimming Pool and Spa Code.

(a) *Adopted.* A certain document, one copy of which is on file in the office of the city clerk being marked and designated as the International Swimming Pool and Spa Code, 2018 edition, published by the International Code Council, Inc., be and is hereby adopted as the swimming pool and spa 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 2018 International Swimming Pool and Spa Code are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 Swimming Pool and Spa Code, 2018 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section 101.1 Title. These regulations shall be known as the International Swimming Pool and Spa Code of the "The City of Branson", hereinafter referred to as "this code".

Section 105.6.1 Work commencing before permit issuance: See Article 1 of this chapter.

Section 105.6.2 Fee Schedule. See Article I of this chapter.

Delete in its entirety *Section 105.6.3 Fee Refunds.*

Section 105.6.3 Fee Refunds. See Article I of this chapter.

Delete in its entirety *Section 107.4 Violation Penalties.*

Section 107.4 Violation Penalties. See Chapter 1 of this Code.

Section 107.5 Stop Work Orders. See Article I of this chapter.

(Ord. No. 2014-0075, § 2(22-179), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Secs. 18-180—18-196. Reserved.

ARTICLE IX. FUEL GAS CODE

Sec. 18-197. International Fuel Gas Code.

(a) *Adopted.* The International Fuel Gas Code, 2018 edition, published by the International Code Council, Inc., a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed herein.

(b) *Amendments.* The code adopted by subsection (a) of this section 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 edition, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Section 101.1 Title. These regulations shall be known as the Fuel Gas Code of "The City of Branson", hereinafter referred to as "this code."

Section 106.6.2 Fee Schedule. See Article I of this Chapter.

Delete in its entirety *Section 106.6.3 Fee Refunds.*

Section 106.6.1 Work commencing before permit issuance: See Article 1 of this chapter.

Section 106.6.3 Fee Refunds. See Article I of this Chapter.

Delete in its entirety *Section 108.4 Violation Penalties.*

Section 108.4 Violation Penalties. See Chapter 1 of this Code.

Section 108.5 Stop Work Orders. See Article I of this Chapter.
(Code 2005, §§ 22-184, 22-185; Ord. No. 2004-151, § 9(500.130), (500.140), 11-8-2004; Ord. No.

2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-197), 8-26-2014; Ord. No. 2015-0126, § 2, 11-10-2015; Ord. No. 2018-0098, § 2, 9-25-2018)

Secs. 18-198—18-217. Reserved.

ARTICLE X. DANGEROUS BUILDINGS

DIVISION 1. GENERALLY

Sec. 18-218. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Abandoned building means any building that has been vacated for a period exceeding six months and where there has been a voluntary relinquishment of all right, title, claim, and possession, with the intention of not reclaiming it.

Attractive nuisance means a hazardous object or condition on land that is likely to attract children.

Dangerous building means any building or structure whose conditions threatens the life, health, safety, or property, of either its occupants or the public, and that has one or more of the following conditions:

- (1) The means of egress is not of sufficient width or size, or is not so arranged, as to provide safe and adequate means of exit in case of fire or panic.
- (2) The floor or stairway is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of egress in case of fire or panic.
- (3) Where either the floor or the roof is overloaded or of insufficient strength to be reasonably safe for the purpose used.
- (4) Where any portion, member, or appurtenance thereof has been damaged so that the structural strength or stabil-

ity of any portion of the building or structure threatens the life, health, safety, or property of the occupants or public.

- (5) Where any portion, member, appurtenance, or ornamentation thereof, is of insufficient strength or stability (for whatever reason), so that it threatens the life, health, safety, or property of the occupants or public.
- (6) Where the building or structure, or any portion thereof, for whatever cause, is likely to partially or completely collapse.
- (7) Where, for whatever reason, the building or structure, or any portion thereof, is so unsafe for the purpose for which it is being used, so as to threaten the life, health, or safety of the occupants or public.
- (8) Where the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- (9) Where the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
- (10) Where the building or structure has been so damaged (from whatever cause) so as to become dangerous to life, safety, or the general health and welfare of the occupants or the public.
- (11) Where the building, structure, or portion thereof has become:
 - a. An attractive nuisance.
 - b. A harbor for vagrants, criminals, or immoral persons.
 - c. A place that persons resort to for the purpose of committing unlawful or immoral acts.

- (12) Where the light, air, or sanitation facilities are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.
- (13) Where such building or structure is in violation of the city's building regulations or adopted code, or any other law or ordinance that protects the life, health, and safety of the occupants or public.
- (14) Where such building or structure has any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent, of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- (15) Where such building or structure, for whatever reason, is determined to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
- (16) Where the building or structure, for whatever reason, is determined to be a fire hazard.

Inspector means a person appointed by the planning and development director or the police chief to perform inspections of buildings and structures in the enforcement of this article.

Interested parties means any or all owners, occupants, lessees, mortgagees, agents, and all other persons having an interest in the building or structure at issue, as shown by the land records of the recorder of deeds office in the county.

Premises means a plot or parcel of land, easement or public way, including any structures thereon.

Unoccupied building means a building whose occupant is temporarily absent and where the occupant's furniture and personal effects remain.

Vacant building means a building having no tenant and is devoid of furniture, fixtures, and the like.

(Code 2005, § 22-200; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2010-071, § 1, 6-22-2010; Ord. No. 2014-0075, § 2(22-218), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-219. Purpose, scope and intent.

(a) *Purpose.* It is the purpose of this article to provide a just, equitable, and practicable method, to be cumulative with and in addition to any other remedy provided by the applicable building, fire, health, and property maintenance codes, or otherwise available by law, whereby buildings or structures, which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or its occupants, may be required to be repaired, vacated or demolished. The purpose of this article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Code.

(b) *Scope.* The provisions of this article shall apply to all dangerous buildings, as defined in this article, that are now in existence or which may hereafter become dangerous.

(c) *Intent.* This article shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises within the city. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required in this article.
(Code 2005, § 22-201; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-219), 8-26-2014)

Sec. 18-220. Duties of inspectors.

Inspectors shall have the following duties under this article; to:

- (1) Inspect, 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 gives the inspector reasonable grounds to believe that any such building is unsafe or 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 inspectors determine that there are reasonable grounds to believe that such building is unsafe or dangerous.
- (3) Inspect any building, wall, or structure reported by the fire or police departments of the city as probably existing in violation of this article.
- (4) Immediately report to the planning and development director any building or structure that the inspector finds to be a dangerous building. The planning and development director may direct the inspector to post on such building or structure written notice that reads substantially as follows:

"This building has been found to be a dangerous building by the City of Branson. This notice shall remain on this building or property until it is repaired, vacated, or demolished, and the property cleaned in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Taney County, Missouri. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the order 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.

- (5) Immediately report to the planning and development director any noncompliance with any notice and order, or failure to

proceed continuously with work pursuant to such notice and order without unnecessary delay.

- (6) Appear at all hearings and appeals, and testify as to the conditions of any building or structure that falls under the purview of this article.
- (7) Entry. When it is necessary to make an inspection to enforce the provisions of this article, or when there is reasonable cause to believe that there exists in a building or structure a condition that is contrary to or in violation of this article, the inspector may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this article. However, if such building or structure is occupied that credentials be presented to the occupant and entry requested. If such building or structure is unoccupied, vacant, or abandoned, the inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises, and request entry. If no consent is given to enter or inspect any building or structure, the inspector shall notify the planning and development director who may request an administrative search warrant, as provided in this Code.

(Code 2005, § 22-202; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-220), 8-26-2014)

Sec. 18-221. Duties of planning and development director.

- (a) *Administration.* The planning and development director is hereby authorized to enforce the provisions of this article, and shall have the power to render interpretations of this article and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this article.

(b) *Inspections.* The planning and development director shall supervise inspections as deemed necessary to enforce the provisions of this article. If the planning and development director deems it necessary for the performance of his duties and responsibilities imposed in this article, the planning and development director may request an inspection and report be made by any other city department or retain services of another whenever the planning and development director deems such services necessary to the enforcement of this article.

(c) *Supervision.* The planning and development director shall supervise all inspections required by this article, and cause the inspector to make inspections and perform all the duties required of the inspector by this article. Upon receiving a complaint or report from any source that a dangerous building exists in the city, the planning and development director shall cause an inspection to be made forthwith.

(d) *Notice and order.* The planning and development director shall provide a notice and order as required by this article, where such notice and order is required.

(e) *Administrative search warrant.* The planning and development director shall take such action as is necessary to obtain an administrative search warrant pursuant to a denial of right of entry.

(Code 2005, § 22-203; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-221), 8-26-2014)

Sec. 18-222. Dangerous buildings declared nuisances.

All dangerous buildings, as defined herein are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided in this article.

(Code 2005, § 22-204; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-222), 8-26-2014)

Sec. 18-223. Notice and order.

(a) *Commencement of proceedings.* When a building or structure has been inspected and has been determined to be a dangerous building, the

planning and development director shall commence proceedings to cause the repair, vacation, or demolition thereof.

(b) *Notice and order.* The planning and development director shall issue a notice and order directed to the owner of record for the building or structure, and all interested parties thereof. The notice and order shall contain:

- (1) The street address and legal description sufficient for the accurate identification of the premises upon which the building or structure is located.
- (2) A statement that an inspection revealed that the building or structure is a dangerous building, with a concise description of the conditions found to render this conclusion.
- (3) A statement of the remedial action required to be taken as determined by the planning and development director. Such statement of remedial action shall include direction concerning the following:
 - a. The owner must vacate, vacate and repair, or vacate and demolish said building or structure, and clean the parcel or property on which the building or structure is located in accordance with the terms of the notice and of this article.
 - b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.
 - c. The mortgagee, agent, or other persons having an interest in said building or structure, as shown by the land records of the county recorder of deeds may, at his own risk, repair, vacate, or demolish the building, and clean the property or have such work done.

Provided that any person notified under this subsection to repair, vacate, or demolish any building or clean the property shall be given such reasonable time not exceeding 30 days to begin compliance

with such notice and order, without unnecessary delay. If it is necessary to obtain a building permit in order to comply with any notice and order, and the person has submitted a complete request to the city for such permit, the time for the city to issue such permit shall not be included for purposes of determining whether the person is proceeding without unnecessary delay.

(c) *Service of notice and order.*

- (1) The notice and order shall be sent via both first class regular mail (postage prepaid) and certified mail (postage prepaid) return receipt requested to the owner of record and all interested parties. Notice sent via the federal postal service shall be effective as of the date of mailing. If the planning and development director learns that neither the regular mailed notice nor the certified mailed notice was received by the recipient for any reason other than refusal, the planning and development director may attempt to have such party personally served with such notice.
- (2) If any person or interested party does not receive such notice, for whatever reason, such fact shall not invalidate any proceedings hereunder as to any other person duly served nor relieve any such person from any duty or obligation imposed by the provisions of this article. Mail returned by the federal postal service marked "refused" shall constitute proof of service.
- (3) If service cannot be had by either personal service or mail, then service may be had by publication in a newspaper for two successive weeks.

(d) *Emergency powers authorized.* In any case where it reasonably appears that there is an immediate danger to the health, safety or welfare of any person, the planning and development director shall take measures to secure the structure and then take steps to vacate, repair or demolish the dangerous building or structure.

(Code 2005, § 22-205; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-223), 8-26-2014)

Sec. 18-224. Standards for repair, vacation and demolition.

The following standards shall be followed by the planning and development director in ordering the repair, vacation or demolition of any dangerous building or structure:

- (1) If the building or structure can reasonably be repaired so it no longer will exist in violation of the terms of this article, it shall be ordered repaired.
- (2) If the building or structure is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered vacated. If the building or structure can reasonably be repaired, repairs shall be made so that such building or structure no longer exists in violation of the terms of this article before being occupied.
- (3) In all cases where a building or structure cannot be repaired so it no longer will exist in violation of the terms of this article, it shall be ordered demolished.
 - a. When an application for demolition is requested, it shall be accompanied by an approved utility disconnect form from all utilities.
 - b. Demolition shall include the removal of the foundations of all structures being demolished.
 - c. Parking lots and retaining walls shall be removed unless specifically approved by the city.
 - d. Any and all disturbed area shall be graded and seeded.
 - e. Residential demolition shall be completed within 15 days of its commencement.
 - f. Commercial demolition shall be completed within 90 days of its commencement.
 - g. Demolition time extensions may be granted by the building official for unforeseen circumstances.

- (4) In all cases where the building is a fire hazard, whether existing or erected, in violation of the terms of this article or any other part of this Code or state statute, it shall be repaired or demolished.
- (5) In all cases where a building or structure has been vacated, such building or structure shall be secured to prevent entry by vagrants or others with unlawful intent, and to prevent an attractive nuisance by the use of boarding or other substantially effective measures.

(Code 2005, § 22-206; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-224), 8-26-2014)

Sec. 18-225. Notice to vacate; procedure and notice.

(a) *Posting.* Every notice to vacate shall, in addition to being served as provided above, be posted at or upon each entrance of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a violation to occupy this building,
or to remove or deface this notice.

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(b) *Compliance.* Whenever such notice is posted, the planning and development director shall include a notification thereof in the notice and order issued specifying the conditions that necessitate the posting. No person shall remain in or enter any building that has been so posted, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and all provisions of the notice and order have been duly met.

(Code 2005, § 22-207; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-225), 8-26-2014)

Sec. 18-226. Failure to comply with notice and order.

(a) Upon receipt of a report from the inspector indicating failure by the owner or any interested party to commence work as required by the notice and order within the time specified by this article or upon failure to proceed continuously with work without unnecessary delay, the planning and development director shall request a hearing giving the owner and interested parties full and adequate hearing on the matter. Such hearing shall be recorded in accordance with RSMo 536.130, and shall be considered a contested case for purposes of judicial review.

(b) Written notice of such hearing shall be given at least ten days in advance of such hearing (in accordance with subsection 18-223(c)) directing the owner and interested parties to appear before the administrative hearing officer 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 the statement of particulars set forth in the notice and order.

(c) Any party may be represented by counsel and all parties shall have an opportunity to be heard.

(d) The administrative hearing officer shall make written findings of fact from the evidence offered at said hearing as to whether or not the building or structure in question is a dangerous building as defined in this article.

(e) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the administrative hearing officer shall issue a written order of abatement based on such findings of fact, commanding the owner or other responsible party to repair, vacate, board, or demolish any building or structure found to be a dangerous building and to clean the property; provided that any person so notified shall have the privilege of either vacating and repairing said building or structure (if such repair will comply with the ordinances of the city) or may vacate and demolish said dangerous building at

his own risk to prevent the city from acquiring a 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.

(f) The written order of abatement from the administrative hearing officer shall be delivered, by person or mail, to each party of the hearing, or their attorney of record. In addition, copies of the order shall be posted in a conspicuous place in the office of the planning and development director for a period of 30 days from the date of issuance. The order shall state a reasonable time, to be no less than 30 days from the date of issuance, within which to comply with the order, and shall further provide that if the work is not substantially completed within 30 days of the issuance of the order, the city may, by its own employees or by contractor, perform the work necessary to bring the building into compliance with the administrative hearing officer's order with costs levied to the property owner, or by a lien placed upon the property.

(Code 2005, § 22-208; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-226), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-227. Appeals from the administrative hearing officer.

Any person with standing aggrieved with the decision of the administrative hearing officer may appeal such decision to the circuit court as established in RSMo 536.100 to 536.140, if a proper record as defined in RSMo 536.130, is maintained of the hearing; otherwise, the appeal shall be made under the procedures provided by RSMo 536.150.

(Code 2005, § 22-210; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-228), 8-26-2014; Ord. No. 2017-0095, § 2, 9-12-2017; Ord. No. 2020-0034, § 2, 3-10-2020)

Editor's note—Ord. No. 2020-0034 deleted the former § 18-227 which was entitled "Appeals from the decision of the planning and development director," and derived from: Code 2005, § 22-209; Ord. No. 2011-004, § 1, adopted Jan. 11, 2011; Ord. No. 2014-0075, § 2(22-227), adopted Aug. 26, 2014; and Ord. No. 2017-0095, § 2, adopted Sept. 12, 2017; and further amended the Code by renumbering §§ 18-228—18-234 as §§ 18-227—18-233.

Sec. 18-228. Enforcement of order of abatement; compliance.

(a) *Generally.* After the time to appeal an order of abatement has passed, such order shall become final, and it shall be a violation of this article for any person to whom such order is directed to fail, neglect, or refuse to obey any such order, or to fail to proceed in accordance with such order continuously without unnecessary delay.

(b) *Compliance with posted notices.* No person shall occupy any building that has been ordered vacated where notice has been posted of such fact. No person shall remove or deface any notice posted pursuant to this article until the repairs, demolition, or removal ordered have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.

(c) *Repair by city.* The planning and development director may, in addition to any other remedy herein provided or otherwise allowed by law, cause the building or structure to be secured and repaired to the extent necessary to correct the conditions that render the building or structure dangerous as set forth in the order of abatement; or, if the order of abatement required demolition, to cause the building to be secured and demolished and the materials, rubble, and debris therefrom removed and the parcel cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner provided in this article and as otherwise allowed by law.

(Code 2005, § 22-211; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-229), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-229. Enforcement of order; extension of time to perform work.

Upon receipt of an application from the person required to conform to the order of abatement, and by agreement of such person to comply with such order if allowed additional time, the planning and development director may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the planning and development director determines that such an

extension of time will not create or perpetuate a situation imminently dangerous to life, health, safety, or property. The planning and development director's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the building or structure, and will not in any way affect the time to appeal the notice and order.

(Code 2005, § 22-212; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-230), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-230. Enforcement of order; interference with repair or demolition work prohibited.

It shall be a violation of this article to obstruct, impede, or interfere with any person in his compliance or assistance with an order of abatement issued pursuant to this article.

(Code 2005, § 22-213; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-231), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-231. Performance of work of securing and repair, or securing and demolition by city; general provisions.

When any work of securing and repair, or securing and demolition is to be done pursuant to this article by the city, the planning and development director shall, through the city administrator, issue an order and the work shall be accomplished by personnel of the city or by private contract under the direction of the planning and development director. The planning and development director may prepare plans and specifications, or may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished under private contract, standard contractual bid procedures shall be followed to minimize costs.

(Code 2005, § 22-214; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-232), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-232. Issuance of tax bill for cost of work.

(a) *Manner of payment.* Where the planning and development director issues an order of abatement, or where an emergency abatement

has occurred and notice has been given in accordance with section 18-223, and the city incurs costs associated with such order or emergency abatement, the planning and development director shall certify the cost of the work to the city clerk, who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. Nothing in this section shall prevent a contractor from obtaining a mechanic's lien for work done pursuant to a contract with the city.

(b) *Payments made due.* At the written request of the taxpayer delivered to the city clerk, a tax bill issued pursuant to subsection (a) of this section may be paid in ten equal annual installments, which installment with interest thereon to date on the unpaid balance shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be at the rate of eight percent per annum on the unpaid balance of the special tax bill computed from the date of issuance. If any annual payment of principal or interest shall not be paid within 30 days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable. If the request for annual payments is not made prior to the time the planning and development director shall certify the cost of the work to the city clerk, the tax bill shall be payable in 60 days from its date of issuance with interest thereon at eight percent per annum until paid.

(Code 2005, § 22-215; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-233), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 18-233. Insurance proceeds.

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 shall govern the procedure for the payment of a portion of the insurance proceeds. This section 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:

- (1) The insurer shall withhold 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 the order or ordinance;
- (2) The city shall release the proceeds and any interest that have accrued on such proceeds received under subsection (1) 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 issued a notice and order, and is proceeding in accordance therewith pursuant to this article. If the city has issued such notice and order (and is proceeding therewith), all moneys in excess of that necessary to comply with such notice and order for the removal, securing, repair, and cleanup of the building or structure, and the parcel on which it is located, less salvage value, shall be paid to the insured;
- (3) If there are no proceeds of any insurance policy as set forth in this section, at the request of the taxpayer, the tax bill may be paid in accordance with section 18-232;
- (4) This section shall apply to fire, explosion, or other casualty loss claims arising on all buildings and structures;
- (5) This section does not make the city a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(Code 2005, § 22-216; Ord. No. 2011-004, § 1, 1-11-2011; Ord. No. 2014-0075, § 2(22-234), 8-26-2014; Ord. No. 2020-0034, § 2, 3-10-2020)

Editor's note—Ord. No. 2020-0034, § 2, adopted Mar. 10, 2020, deleted former § 18-35 entitled "Board of appeals," which derived from: Code 2005, § 22-217; Ord. No. 2011-004, § 1, adopted Jan. 11, 2011; and Ord. No. 2014-0075, § 2(22-235), adopted Aug. 26, 2014.

Secs. 18-234—18-263. Reserved.

DIVISION 2. METHAMPHETAMINE CONTAMINATED STRUCTURES

Sec. 18-264. Purpose.

The standards, requirements and protocols in this division are established for the cleanup of illegal laboratories used to manufacture methamphetamine which property owners are required to meet.

Sec. 18-265. Applicability.

The requirements of this division apply when the owner of property that has been posted as a dangerous building receives notification from the inspector that chemicals, equipment, or supplies indicative of a drug laboratory were located at the property, or when a drug laboratory is otherwise discovered, and the owner of the property where the drug laboratory was located has received notice.

Sec. 18-266. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Chemical storage area means any area where chemicals used in the manufacture of methamphetamine are stored or have come to be located.

Contaminant means a chemical residue that may present an immediate or long-term threat to human health and the environment.

Cooking area means any area where methamphetamine manufacturing is occurring or has occurred.

Decontamination means the process of reducing the level of contamination to the lowest practical level using currently available methods. At a minimum, decontamination must reduce contamination of specified substances below the concentrations allowed by this protocol.

Disposal means handling, transportation and ultimate disposition of materials removed from contaminated properties.

Functional space means a space where the spread of contamination may be expected to occur relatively homogeneously, compared to other functional spaces. The term "functional space" may refer to a single room or a group of rooms designated by an inspector who, based on professional judgment, considers the space to be separate from adjoining areas with respect to contaminant migration. Typical examples of functional spaces include a crawl space, an attic, and the space between dropped ceiling and the floor or roof deck above.

Media means the physical material onto which sample substrate is collected. The term "media" includes gauze, glass fiber filters, etc.

Methamphetamine means dextro-methamphetamine, levo-methamphetamine, and unidentified isomers of the same, any racemic mixture of dextro/levo methamphetamine, or any mixture of unidentified isomers of methamphetamine. The term "methamphetamine" includes derivatives, conjugates, oxides and reduced forms of the basic structure associated with the formation of methamphetamine. For the purposes of this protocol, the term "methamphetamine" includes amphetamine, ephedrine and pseudoephedrine.

Substrate means the material being collected. The term "substrate" may include soils, water, painted surfaces, carpet or carpet debris, unidentified powders, dust, etc.

Sec. 18-267. Assessment.

(a) When law enforcement personnel discover property where methamphetamine has been produced, stored, or where the equipment and chemicals to produce methamphetamine are present in sufficient quantities to warrant enforcement action, the owner is required to hire a qualified contractor as determined by the city to take samples using a methamphetamine field test kit. The field test used shall be of the type approved by the city, industry experts and the courts, and shall measure the presence of

methamphetamine residue on surfaces at a level that is at least as high as the level established in this division. This assessment shall include, but not be limited to, the following:

- (1) Assessment of the number and type of buildings or structures present on the property where methamphetamine may have been produced.
 - (2) Identification of structural features that may indicate separate functional spaces, such as attics, false ceilings and crawl spaces, basements, closets and cabinets.
 - (3) Identification of the manufacturing methods based on observations, reports from law enforcement personnel and knowledge of manufacturing methods.
 - (4) Identification of possible areas of contamination based on visual observation, reports from law enforcement personnel, proximity to chemical storage areas, waste disposal areas, or cooking areas, signs of contamination such as staining, etching, fire damage, outdoor areas of dead vegetation or based on the professional judgment of the person collecting the samples.
 - (5) Identification of adjacent units and common areas to determine the likelihood that contamination has spread or may have been tracked.
 - (6) Identification of common ventilation systems with adjacent units or common areas.
- (b) On the basis of the analysis of these areas and the judgment of the person collecting the data, a sampling plan will be formulated to determine the areas with the greatest probability of containing the highest possible concentrations of contaminants. Samples will be taken with techniques that are appropriate for the surface being sampled using media and testing kits designed to detect the presence of methamphetamine, the results of which are determined at the time the samples are collected.

(c) If the field test reveals the presence of methamphetamine at levels in excess of the levels established herein, the building shall be considered unsafe for human habitation and determined to be a dangerous building.

Sec. 18-268. Procedures for assessment, sampling and testing.

(a) Issuance of a notice and order for buildings determined to be dangerous buildings pursuant to this division shall be in accordance with the notice and order provisions in this article and as provided in this section.

(b) Notice shall inform the owner to contact the designated city official to establish a schedule for decontaminating the building. If the owner does not contact the city within the time specified in the notice, the inspector may request disconnection of electric service to ensure the building is not re-occupied until decontamination is performed.

(c) If the owner contacts the city within the prescribed period, the owner may request permission to have the property retested. If the owner chooses to retest the property, the owner must employ the services of a company that the inspector shall determine is qualified to perform sampling and to analyze the samples. The results of the analysis shall be provided to the inspector.

(d) Testing shall be performed in accordance with the appropriate sections of the most recent editions of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup and Missouri Department and Health Services Guidelines for Cleaning Up Former Methamphetamine Labs.

Sec. 18-269. Contamination levels.

A building will be considered unsafe and noncompliant if it is found to contain more than the following levels of any of these chemicals:

- (1) Methamphetamine in a concentration equal to or greater than 1.5 µgram/100 cm².
- (2) If it is determined that the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was

used, surface levels for lead in excess of 20 µg/ft² and vapor samples for mercury in excess of 50 ng/m³.

Sec. 18-270. Decontamination.

(a) If testing reveals the presence of contamination in levels that exceed the standards set forth in this section, the owner is required to hire a qualified contractor to decontaminate the building and shall advise the inspector of the schedule for decontamination. At a minimum, to be qualified to perform decontamination, contractors and all personnel must have completed the 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training (Occupational Safety and Health Administration (OSHA) 29 CFR 1910) and a clandestine drug lab assessment and decontamination course that is provided by a sponsor acceptable to the code official.

(b) The schedule for the work and evidence that the contractor has met the minimum training requirement must be submitted for approval to the inspector within seven business days of the posting of the notice. Approval will be based solely on the timeliness of the schedule and the qualifications of the contractor. Approval or rejection of the schedule will be provided within three business days of submission. If rejected, the owner will be informed of specific reasons for the rejection and will be required to amend the schedule or the proposed contractor. Decontamination shall be performed in accordance with the appropriate sections of the most recent editions of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup and Missouri Department and Health Services Guidelines for Cleaning Up Former Methamphetamine Labs.

(c) If the owner of property determined to be in violation of the minimum allowable levels of chemicals as provided in this protocol fails to voluntarily mitigate the violation, the inspector may serve a notice of violation and proceed in accordance with the International Residential Code or may declare the building as unsafe and proceed in accordance with the International

Building Code. The inspector may request disconnection of electrical service until the decontamination is complete.

Sec. 18-271. Post-decontamination sampling.

When the owner arranges for decontamination, following the completion of the work, the owner will notify the city that work is complete and schedule a time for post-remediation testing. The owner must provide test results as evidence that the property is compliant with this regulation. Should the results of the post-remediation sampling show the presence of methamphetamine in excess of the standards established by this division, further steps shall be taken to decontaminate the building and additional testing shall be done. Each time an inspector for the city is present, the owner shall pay an inspection fee in the amount provided in the city fee schedule. The post-remediation sampling and testing must be performed by a company the inspector has determined to be qualified and done in accordance with the appropriate sections of the most recent editions of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup and Missouri Department of Health Services Guidelines for Cleaning Up Former Methamphetamine Labs.

Sec. 18-272. Final action.

After the property has been decontaminated and the inspector is in possession of evidence that the pertinent chemical levels are below the levels established by this regulation, the building will be considered safe and suitable for human habitation. If electric service has been disconnected, the inspector will notify the owner that electric service can be restored. The owner shall be responsible for any re-connection fees.

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RESERVED

Chapter 22

BUSINESSES*

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***State law references**—Taxation and revenue generally, RSMo 135.010 et seq.; occupations and professions generally, RSMo 324.001 et seq.; municipal taxing authority generally, RSMo 71.610; taxation in special charter cities, RSMo 94.340 et seq.; authority to impose business licenses taxes as granted by municipal charters, RSMo 71.610; merchant, manufacturer, itinerant vendor, and peddler licenses and taxes, RSMo 150.010 et seq.; business corporations, RSMo 351.010 et seq.; authority for municipal regulation of beauty and barber shop closing hours, RSMo 71.750; authority for municipal regulation of dairies and milk, RSMo 71.720.

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- Sec. 22-53. Renewal of license.
- Sec. 22-54. Administrative appeals.
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ARTICLE I. IN GENERAL

Sec. 22-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Applicable liabilities means the sum of accounts payable, all accrued taxes (i.e. sales, income, real estate, personal property), accrued expenses, and notes that are unsecured or secured in whole or part by current assets. The term does not include liabilities secured by assets other than current assets. Net assets must be represented by a capital investment unencumbered by any liens or other encumbrances to be subject to the claims of general creditors.

Approved means complying with all applicable state laws and city ordinances. The term "approved" does not give any city officer or employee discretion to fail to approve any item or method, except for failure to comply with applicable city ordinances and state laws.

Business means any person, excluding charitable and civic organizations that do not sell merchandise or admissions at a store or place occupied for that purpose, engaged in any business, occupation, pursuit, profession or trade, or in keeping or maintaining an institution, establishment, office, vending machine or depository location except as may be otherwise provided in this chapter.

Carriage stand means a temporarily designated area for the parking of horse-drawn vehicles for the purpose of embarking and disembarking passengers for hire.

Charitable organization means a church or a not-for-profit public foundation centered on goals of a general philanthropic nature (e.g., charitable, educational, or religious serving the public interest or common good).

City officer. When duties and responsibilities are given to any city officer such as the finance director or the police chief, the duties may be

performed by the named officer or any city officer or employee under the officer's supervision, if that city officer or employee has been assigned by his superior to perform the duties in question. Duties concerning drafting regulations, drafting forms or making recommendations to the board are not to be delegated. Duties concerning administrative appeals are not to be delegated.

Civic organization means any group, club, or affiliation that typically has members that meet on a regular basis to promote the development and involvement of citizens in the betterment of the community, its people or its citizenship (e.g., Lion's Club, Boy Scouts, Rotarians).

Courtesy car means any vehicle operated to or from a motel or hotel which is designed to carry patrons of the business to or from fixed locations in the city or any vehicle used by an establishment arranging sightseeing or other similar tours for the purpose of transporting patrons of such establishment without charge.

Current assets means the sum of cash on hand, bank deposits, merchandise inventory, and loans due from customers excluding the pawn service charge. The term does not include equipment, real estate investments or improvements, furniture, prepaid expenses, stock, bonds, or other securities.

Dealer means any person who deals in property or goods, as described in this section, that may purchase outright or provide monetary loans for or against property and goods.

Digital network means any online-enabled technology application, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

Exclusive use carriage stand means a carriage stand established by the board on a city right-of-way for the use of one licensed horse-drawn carriage business. The board may establish more than one such stand.

Fees means, unless otherwise provided, all license and permit fees and taxes levied on or

required to be paid, as provided in this Code, by any merchant, manufacturer, wholesaler, contractor, subcontractor or business.

Horse-drawn carriage means a wagon, coach or other vehicle that is powered in whole or in part by one or more horses, mules, or other animals.

Insurance agent means any person who writes insurance business in only one insurance company.

Insurance broker means any person who writes general insurance business in two or more companies.

License means, unless otherwise provided, all licenses and permits required to be secured or had, as provided in this Code, by any person, merchant, manufacturer, wholesaler, business, subcontractor or contractor.

License year. Unless otherwise provided, the license year shall begin on May 1 and shall end on April 30 next. For lodging establishments, the license year shall begin on November 1 and shall end on October 31 of the following year.

Limousine means a large sedan which has a capacity of no less than seven passengers and no more than 12 passengers, excluding courtesy cars, and which meets department of transportation (DOT) safety regulations in transporting the general public.

Lodging establishment means any building, group of buildings, structure, facility, place, or places of business where five or more guestrooms are provided, which is owned, maintained or operated by any person, and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, apartment hotel, resort, cabin, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, nontransient guests, or for both transient and nontransient guests.

Manufacturer means any person engaged in the process of manufacturing, fabricating or

refining at any place occupied for that purpose within the city, except as may be otherwise provided by ordinance.

Merchant means any person engaged in the selling of any goods, wares, or merchandise at any store, stand or place occupied for that purpose within the city, except as may be otherwise provided by ordinance.

Merchant or dealer, when used with respect article IV, division 3, pertaining to pawnshops and pawnbrokers, means one who deals in property or goods, as described in such division, that may purchase outright or provide monetary loans for or against property and goods.

Motorized bicycle, motorized bike or moped means any two-wheeled or three-wheeled device having an automatic transmission and a motor 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.

Net assets means the current assets of the pawnshop less applicable liabilities.

Nightly rental means a building or portion thereof, in which sleeping accommodation is available for fewer than five guestrooms, for legal consideration, for a term less than 30 consecutive days.

Operator means any person legally operating a vehicle or vehicle for hire within the city limits, whether owned or rented. The term "operator" may include, but is not limited to, a person engaged in the public transportation of passengers for hire.

Owner means any person who legally owns, rents, controls or has the use of any business, vehicle, vehicle for hire, property, premises, permit, license, or anything else as specified in this chapter.

Panhandle or panhandling means any request made in person upon any public street, sidewalk, alley, park or other public place, in which a person requests an immediate donation of any item of value, monetary or otherwise from another person, and includes but is not limited to seeking

donations of any item of value, monetary or otherwise, by spoken or written appeal, and the person being appealed to receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

Pawnbroker means any person engaged in the business of lending money on the security of pledged goods or engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Pawnshop means the location at which or premises in which a pawnbroker regularly conducts business.

Peddler means any person, firm, partnership, or corporation who does not have a regular licensed place of business in the city selling or offering for sale any article, chattel, or thing for profit by either going from place to place or selling from wagon or truck or other vehicle, without prior scheduling, appointment or approval by the owner or occupant of the premises, within the city limits.

Plan of operation means a plan of operation for a public transit system submitted by a trolley or bus operator to the board. The plan of operation shall include items outlined in section 22-291.

Pledged goods means tangible personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

Pledgor means one who provides and delivers tangible personal property and completes a transaction with a pawnbroker, dealer or merchant for the loan of money based upon the property being held as collateral until repayment of loan is complete.

Public transit system means one or more coach type buses or rubber tire trolleys which meet DOT safety guidelines, proposed for use in transporting the general public in the city.

Rental owner means any person having the use or control of one or more motorized bikes, and who is engaged in the business of renting or letting the motorized bikes for purposes of monetary gain.

Retailer means any person who sells to a consumer or to any person for any purpose other than resale.

Safe means having no defect in design, materials, workmanship, method of installation or method of normal use which creates a hazard to any person or property.

Secondhand means property or goods received from or through an intermediary, property or goods acquired after being used by another, or property or goods not considered new.

Shuttle means any motor vehicle having a capacity of more than five passengers, exclusive of the driver, and operated on a regular route or between fixed termini and which meets DOT safety regulations in transporting the general public.

Solicit means to initiate contact with a member of the public by the offer of any goods or services, whether at full price, discounted or free, in exchange for any action on the part of that member of the general public.

Solicitor means any person, firm, partnership, or corporation, who solicits from the public or through professional solicitors money, donations, property or financial assistance of any kind on public rights-of-way, in school buildings, by house-to-house canvass, or in any public place or area.

Subcontractor means any licensed contractor, under contract or performing for, and not on the payroll of, a licensed contractor or owner.

Taxi means any vehicle performing a public transportation for hire service having a capacity of not more than five passengers, exclusive of the

driver, and not operated on as regular route or between fixed termini and which is not regulated by the department of transportation.

Taximeter means a mechanical instrument or device by which the charge for hire of a taxi at a predetermined rate is mechanically calculated and registered, either for distance traveled or for waiting time, or both, and upon which such charge shall be indicated by means of figures which are electrically lighted each time the taximeter's flag is thrown from the nonearning to the earning position.

Temporary daily license means a daily business license issued to help facilitate a person in the operation of their business for temporary or special events, or in the transition to new ownership of an existing business after all health, safety, and departmental inspections have been approved. Temporary daily licenses cannot exceed 60 days.

Transportation network company or *TNC* means a corporation, partnership, sole proprietorship, or other entity operating in the City of Branson, that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC shall not be deemed to own, control, direct, operate, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.

Transportation network company (TNC) driver is an individual who:

- (1) Receives connections to potential riders from a transportation network company in exchange for payment of a fee to the transportation network company; and
- (2) Uses a TNC vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation.

Transportation network company (TNC) vehicle means a vehicle that is used by a transportation network company driver and is:

- (1) Owned, leased, or otherwise authorized for use by the TNC driver; and

- (2) Not a taxi, courtesy car, limousine, or vehicle for hire.

Trolley means a rubber tire trolley type bus which meets DOT safety regulations in transporting the general public as approved as part of the plan of operation by the board.

Vehicle for hire means a motor vehicle or horse-drawn carriage used for the purpose of transporting passengers for hire.

Waiting time means the time when a taxi is not in motion from the time of acceptance of a passenger to the time of discharge, but not including any time the taxi is not in motion due to mechanical breakdown, traffic conditions or any cause other than the request, act or fault of a passenger.

Wholesaler means any person engaged in the business of making sales of merchandise or products to any other person engaged in the business of making sales of merchandise or products at retail within the city.

(Code 1988, §§ 605.010, 610.040, 670.010, 675.010, 685.010; Code 1996, §§ 605.010, 610.040, 650.010, 665.010; Code 2005, §§ 26-31, 26-61, 26-171, 26-231, 26-271, 26-301; Ord. No. 87-5, § 1, 2-23-1987; Ord. No. 87-23, § 4, 6-8-1987; Ord. No. 92-25, § 1, 4-27-1992; Ord. No. 90-1, § 1, 1-8-1990; Ord. No. 90-11, § 1, 4-23-1990; Ord. No. 96-043, § 1, 5-13-1996; Ord. No. 97-017, § 1, 6-9-1997; Ord. No. 99-665, §§ 5, 6, 4-12-1999; Ord. No. 99-959, § 18, 10-11-1999; Ord. No. 2001-068, § 615.010, 6-25-2001; Ord. No. 2005-038, § 1(610.010), 3-28-2005; Ord. No. 2008-064, § 1, 7-14-2008; Ord. No. 2015-0023, § 2(26-61), 2-24-2015; Ord. No. 2015-0032, § 2(26-171), 3-24-2015; Ord. No. 2016-0053, § 2, 5-24-2016; Ord. No. 2017-0072, § 2, 6-13-2017; Ord. No. 2018-0121, § 2, 10-23-2018; Ord. No. 2023-0055, § 2, 5-23-2023)

State law reference—Similar provisions, RSMo 390.020(27).

Secs. 22-2—22-20. Reserved.

ARTICLE II. LICENSES

DIVISION 1. IN GENERAL

Sec. 22-21. Scope.

The provisions of this article apply to all business licenses of the city, except where an ordinance concerning a particular business contains a specific provision to the contrary, in which case the specific provision shall apply.
(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(a); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-22. License required.

No person shall operate a business within the city without first having obtained a valid business license or permit. No person may continue to operate a business after the expiration of the license unless an application has been made for a new license and a new license has been issued.
(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(b); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-23. Application; issuance of license.

In the absence of a provision to the contrary, applications for business licenses shall be made to the finance department on forms supplied by the finance department. All individuals signing the application as the responsible party shall provide a copy of their driver's license or other city-acceptable government-issued identification. No license shall be issued until all appropriate fees and obligations due to the city, as

required by ordinance, have been paid. No license shall be issued unless all state licensing requirements have been met as demonstrated by a copy of a state sales tax license for the city address for which sales tax returns need to be filed or a copy of the state secretary of state name registration for the business name as used in signage, advertising and the activities of the business. If all required information is supplied, the requested fees have been paid, and it does not appear that any applicable state law or city ordinance will be violated by the operation of the business, the license shall be issued.
(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(c); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-24. Fees.

(a) *Annual license fee.* Every person, merchant, manufacturer, wholesaler, contractor, subcontractor or business renewing a license shall submit the required license application and fee on or before May 1. If the fee is based on the number of employees, the calculation shall be based on the highest number of employees working at that business in the city on one day during the previous calendar year. Any person, merchant, manufacturer, wholesaler, contractor, subcontractor or business commencing operations or business between May 1 and October 31 shall pay the full annual fee. Any person, merchant, manufacturer, wholesaler, contractor, subcontractor or business commencing operations or business between November 1 and January 31 shall pay 50 percent of the annual fee. Any person, merchant, manufacturer, wholesaler, contractor, subcontractor or business commencing operations or business between February 1 and April 30 shall pay 25 percent of the annual fee.

(b) *Annual license fee—Lodging establishments.* Every business operating as a lodging establishment and renewing a license shall submit the required license application and fee on or

before November 1. The fee is based on the number of employees, and the calculation shall be based on the highest number of employees working at that business in the city on one day during the previous calendar year. Any business operating as a lodging establishment commencing operations or business between November 1 and April 30 shall pay the full annual fee. Any business operating as a lodging establishment commencing operations or business between May 1 and July 31 shall pay 50 percent of the annual fee. Any business operating as a lodging establishment commencing operations or business between August 1 and October 31 shall pay 25 percent of the annual fee.

(c) *Late renewal fee.* Businesses failing to submit a completed application with all required documents, fees and signature, including any city, county, or state departmental approvals for license renewal within the first 15 days immediately following the license expiration, will be assessed a late renewal fee. Fees for late renewals are due and payable before an annual license can be issued.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(d), (e); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011; Ord. No. 2023-0055, § 2, 5-23-2023)

Sec. 22-25. License nonassignable.

No license shall be assignable, transferable, or refundable.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(f); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-26. Occupancy permit required.

Licenses required by this article shall not be issued until an occupancy permit has been issued and approved by the planning and development department.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(g); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-27. Issuing agency; posting.

(a) *Issuing agency.* The finance department shall issue all approved licenses, and subsequent licenses.

(b) *Maintenance and posting of license.* All licenses granted by the city shall be carefully preserved at the address for which they were issued as shown thereon, be prominently posted and be available for examination during normal business hours by any duly authorized agent of the city.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(h), (i); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-28. Statement of number of employees.

Every person who is charged for a license based on the number of employees shall submit a statement of the highest number of employees employed on one day by that business during the preceding calendar year, and shall file an affidavit to that effect. For a new business, the highest number of employees it will employ on one day during the coming 12 months is to be estimated. (Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(j); Ord. No. 87-5, § 2, 2-23-

1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-29. Denial of license.

No license or permit shall be issued to any applicant who shall have failed to pay any other obligation then due and owing to the city, including, but not limited to, sales tax, tourism tax, personal property tax, inspection fees, and sewer connection fees or be in violation of any lawfully imposed building, health, safety, or zoning code and/or ordinance; nor shall any license or permit be issued to any applicant for the purpose of conducting business at any location where any, neighborhood improvement district assessment, is delinquent and unpaid. Exception: Upon approval by the finance director, a temporary license may be issued provided the provisions of this article defining a temporary license is met and the license fee is paid.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(k); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-30. Separate license required for each address at which a business entity operates.

A separate license shall be obtained for each address at which a person conducts, operates, maintains, processes, manufactures and carries on business activities or provides services.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(l); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-31. Records on computers.

Nothing in any city ordinance shall be deemed to prohibit the finance department from using computers to organize information concerning licenses, or from storing or processing such information. To ensure the permanence of electronic records and digitized records, the electronic records management system the finance department shall use to store electronic records must meet the standards outlined in the most current version of the International Organization for Standardization (ISO) 15489.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(m); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011; Ord. No. 2023-0140, § 2, 12-12-2023)

Sec. 22-32. Number of licenses.

In the absence of a specific provision to the contrary, no ordinance is to be interpreted as limiting the number of licenses that may be issued or as limiting the number of business enterprises of any particular kind that may be operated in the city. No city officer or employee may refuse to issue a license because of the officer's or employee's belief that there are enough of a particular type of business in the city already.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(n); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-33. Inspections.

Any business in the city may be inspected by city officers and employees authorized to enforce provisions of ordinances relating to that business. In the absence of an emergency and in the absence of sound reasons whereby an inspection cannot be made during regular business hours, inspections shall be made during regular business hours. Immediately upon arriving at the place of business for the purpose of making an inspection, the city officer or employee making the inspection shall identify himself and shall state that the purpose of the visit is to make an inspection. No person having control of any business premises shall refuse to permit a city officer or employee to enter for the purpose of making an inspection.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(o); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

issue a business license. Licenses shall be issued to each applicant complying with all applicable state laws and city ordinances, and licenses shall be refused for any applicant failing to comply with all such applicable laws and ordinances.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(q); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-36. Lodging establishments or nightly rentals in low density residential districts.

Lodging establishments or nightly rentals are prohibited from operation in Low Density Residential Districts. A business license shall be denied to a business that provides lodging for legal consideration for a term less than 30 consecutive days in a district zoned low density residential.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(r); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011; Ord. No. 2016-0193, § 2, 12-13-2016; Ord. No. 2018-0121, § 2, 10-23-2018)

Editor's note—Ord. No. 2018-0121, § 2, adopted Oct. 23, 2018, changed the title of § 22-36 from "Lodging establishments in Low Density Residential Districts" to read as herein set out.

Sec. 22-37. "No tax due" statement prerequisite to license issuance.

Pursuant to RSMo 144.083, no city license shall be issued or renewed under this chapter to a business required to collect sales tax unless the license or license renewal application is accompanied by a statement issued by the state department of revenue indicating that the applicant owes no taxes under RSMo 144.010

Sec. 22-34. Sworn statements.

Whenever any city ordinance requires a sworn statement or application relating to any business, the person making the statement may make the statement either under oath or under affirmation to tell the truth.

(Code 1988, § 605.020; Code 1996, § 605.020; Code 2005, § 26-32(p); Ord. No. 87-5, § 2, 2-23-1987; Ord. No. 96-043, §§ 2—5, 5-13-1996; Ord. No. 97-017, § 2, 6-9-1997; Ord. No. 98-018, § 1, 2-23-1998; Ord. No. 2000-056, § 1, 3-27-2000; Ord. No. 2002-023, § 2, 3-11-2002; Ord. No. 2004-054, § 1(605.020 K), 4-26-2004; Ord. No. 2009-050, § 1, 6-23-2009; Ord. No. 2011-010, § 1, 1-11-2011)

Sec. 22-35. Duty to issue license.

No city ordinance relating to business licenses shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or to refuse to

through 144.510 or 143.191 through 143.261. The date of issuance on the statement that the applicant owes no tax due shall be no more than 90 days before the date of submission to the city of the application for license issuance or renewal.

Sec. 22-38. License fees.

(a) Except as otherwise provided in this section, every person, unless exempted by law or other provisions of this Code, shall calculate their license fee according to the scale in the city fee schedule based on the highest number of employees, both full-time and part-time (with each two part-time employees equaling one full-time employee) employed by the business on one day during the preceding calendar year. In the case of a new business location to be licensed, the applicant is to estimate the highest number of employees to be employed on one day during the next 12 months.

(b) License fees associated with business activities for which fees are not based on number of employees shall be as separately provided in the city fee schedule.

(c) All contractors, subcontractors or trades doing business within the city limits shall be licensed in accordance with division 2 of this article.

(d) Pawnshop license fees and investigation fees shall be as provided in the city fee schedule.

(e) No claims or refunds shall be allowed for fees assessed and paid under this article.

(f) Nothing in this article or in the city fee schedule shall be construed as authorizing any person to sell intoxicating or nonintoxicating liquors by virtue of such license.

(Code 1988, § 605.030; Code 1996, § 605.030; Code 2005, § 26-33; Ord. No. 87-5, § 3, 2-23-1987; Ord. No. 98-018, § 2, 2-23-1998; Ord. No. 99-959, § 19, 10-11-1999; Ord. No. 2005-038, § 2(605.030), 3-28-2005; Ord. No. 2015-0032, § 2(26-33), 3-24-2015; Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-39. Change of business location; change of business ownership.

(a) If control of the business remains with the same person, an existing business may transfer its current license to a different location within 15 calendar days of the closure of the old location by filing a new application with the finance department and paying the applicable change of location fee. The new location must comply with all city building, health, fire and zoning codes and ordinances.

(b) A license issued to any person under the provisions of this article shall not be transferable from one person to another person in the event of change of ownership, change in management companies or receivership appointment. (Code 1996, § 605.040; Code 2005, § 26-34; Ord. No. 98-018, § 3, 2-23-1998)

Sec. 22-40. Violations; suspension or revocation.

(a) *Delinquent payments.* All license fees provided for in this article shall be deemed delinquent if not paid on or before the due date.

(b) *False statements.* Any merchant, manufacturer, contractor or business making a false statement which shall cause a reduction in any license fee shall be required to pay the city the additional amount due, plus the amount provided in the city fee schedule.

(c) *Revocation of license authorized.* The license of a person, merchant, manufacturer, wholesaler, subcontractor, contractor or business may be revoked after notice for any one or more of the following reasons:

- (1) Failure to comply with the provisions of this article or any other ordinance pertaining to the business codes, building codes, fire codes, health codes, or zoning codes or ordinances of the city.
- (2) Failure to operate the business as required by law.
- (3) Creation of a public nuisance.
- (4) Providing false information to obtain a license.

(5) Failure to pay any obligation due and owing to the city.

(d) *Procedure for revocation.* If the finance director takes action to revoke a license, they shall provide the licensee with notice in writing mailed to the address of record provided on the business license application 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 business days' notice. After such informal meeting, the director may reverse their decision or may reaffirm their decision in writing. If the licensee appears and the matter is not resolved, the licensee may request in writing within five business days a public hearing as provided in chapter 30 of this Code for administrative hearings. That hearing date shall be set within 30 days of the request.

(e) *Disconnection from water system.* Any person operating a business within the city limits without a valid business license in violation of section 22-22, and directly or indirectly connected to the city water utility system, shall be disconnected from the city water utilities if such violation is not corrected within ten days after delivery of a notice of such violation from the finance director.

(Code 1988, § 605.060; Code 1996, § 605.070; Code 2005, § 26-36; Ord. No. 87-5, § 5, 2-23-1987; Ord. No. 97-017, § 3, 6-9-1997; Ord. No. 98-148, § 1, 10-26-1998; Ord. No. 99-665, § 5, 4-12-1999; Ord. No. 99-994, § 1, 11-22-1999; Ord. No. 2002-023, § 3, 3-11-2002; Ord. No. 2017-0095, § 2, 9-12-2017; Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Editor's note—Ord. No. 2024-0003, § 2, adopted Jan. 23, 2024, deleted § 22-40 entitled "Insurance and bond required for certain businesses," which derived from: Code 1988, § 605.050; Code 1996, § 605.060; Code 2005, § 26-35; Ord. No. 87-5, § 4, adopted Feb. 23, 1987; Ord. No. 99-665, § 5, adopted Apr. 12, 1999; Ord. No. 99-959, § 20, adopted Oct. 11, 1999; and Ord. No. 2009-075, § 1, adopted Oct. 13, 2009; and further amended the Code by renumbering existing §§ 22-41—22-43 as §§ 22-40—22-42 as herein set out.

Sec. 22-41. Exemptions.

The provisions of this article shall not apply to sales made by dealers or commercial travelers or

selling agents in the usual course of business, or to bona fide sales of goods, wares and merchandise by sample for future delivery.

(Code 1988, § 605.070; Code 1996, § 605.080; Code 2005, § 26-37; Ord. No. 87-5, § 5, 2-23-1987; Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-42. Forced closure of a business.

(a) A business may be forced to close its doors if it is found to be in operation having failed to obtain a license as required by section 22-22; having failed to renew its license as required by subsection 22-24(b); having failed to obtain a new license upon a change of ownership or move as required per section 22-39; has its license revoked by the city in accordance with subsection 22-41(d); or has its city license voided by revocation action of the state department of revenue in accordance with RSMo 144.083.2.

(b) Before closure is enforced by the city, the finance department will provide written notice via certified mail to the mailing address on file and in person by a representative of the city to the business location. The notices will provide the business a minimum of ten working days to remedy whatever issues are preventing the business from obtaining or retaining a license. The notices will specify the date and hour after which closure will be enforced.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

DIVISION 2. CONTRACTOR LICENSE

Sec. 22-43. Definitions.

Exclusively for the purposes of this division, the following terms shall have the meanings ascribed below:

Apprentice means an individual person who labors at the trade of installing, altering, repairing, removing, replacing or maintaining any HVAC, pipefitting, plumbing, electrical system or equipment under the direct supervision of a master or journeyman craftsman.

Class A—General contractor means any person or firm that constructs, alters or repairs any structure for which a permit is required.

Class B—Mechanical, electrical, and plumbing contractor means any person or firm that performs mechanical (HVAC) services, plumbing services, or electrical contractor services.

Contractor means any person or firm that undertakes with or for another to construct, alter, repair, or demolish any structure or any portion thereof including every plumbing contractor, electrical contractor, mechanical heating, ventilation, and air-conditioning (HVAC) contractor, and general contractor, building contractor, and residential contractor. A "firm", for the purposes of this division, means any sole proprietorship, partnership, association, limited liability company or corporation.

J Journeyman means an individual person who labors at the trade of installing, altering, repairing, removing, replacing or maintaining any HVAC, pipefitting, plumbing, electrical system or equipment under the direct supervision of a master craftsman.

Master means an individual person licensed under the provisions of this article who is responsible for any HVAC, pipefitting, plumbing or electrical installation for which a permit has been issued under the provisions of this Code.
(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-44. Contractor's license exclusions.

It is the intent of this division that the contractor who obtains a building permit shall be responsible, within the scope of such permit, for the completion of the construction, alteration, repair, or demolition in accordance with all applicable building, fire, electrical, plumbing and HVAC codes ("codes"). However, the following persons are not "contractors" within the meaning of this article:

- (1) An employee or agent working for and under the supervision of a contractor licensed under this article for any type of construction being undertaken; and
- (2) A homeowner who personally occupies and undertakes the construction, alteration, repair, or maintenance of such homeowner's single-family residence or any accessory structure thereto.

Notwithstanding the foregoing, for purposes of this section, any homeowner who undertakes the construction of a new residence for his personal occupancy more than one time in any five-year period shall be deemed to be a "contractor" under this article.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-45. Contract's license—Contractor responsible for all work.

Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including work done by the contractor's employees, agents, and subcontractors. Said work shall be performed in accordance with all applicable codes as adopted and amended from time to time.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-46. Contractor insurance.

Every contractor, except a contractor who has an "inactive license", shall keep in force a policy of general liability insurance, including completed operations coverage during the license year. Such insurance policy shall be written with an insurance company licensed to do business in the State of Missouri. All Class B contractors shall maintain general liability coverage in an amount not less than \$100,000.00. In addition, every such contractor shall procure and maintain workers compensation insurance as required by law. A contractor, at the time of licensing under this article, shall provide the city with a certificate of insurance or other satisfactory evidence of the insurance coverage required by this section.
(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-47. Bond required, when.

(a) Any contractor doing business in the city and actively engaged in the business of blasting, excavation, or any other trade which requires drilling, digging, trenching, or similar types of operation in the right-of-way shall, before receiving a contractor's license, as described in this division, file with the finance director a license and permit bond (surety) or a cash bond in the

sum of \$500.00 for the restoration of any street, curb, sidewalk, water line, sewer line, gas line or public property and for the incurring of other expenses or charges by the city (such as the removal of construction wastes, cleanup of streets, sidewalks, etc.) if the applicant fails to restore them to the original condition with the same materials and in the same manner. It shall further be a condition that the contractor shall pay any or all loss or damage occasioned by him, agents or employees, in the use of or handling of explosives used in blasting for the purposes of construction; also he will comply with all ordinances of the city and the rules of the board relating to the turning on and off from the waterworks; and will pay, when due, all bills for material and labor furnished by the city to the principal.

(b) In addition, any contractor doing business in the city and actively engaged in the business of blasting, excavating, or any other trade which requires drilling, digging, trenching, or similar types of construction, whether on private property or the right-of-way, shall submit a policy in accordance with section 2-287. The policy shall not be canceled without 30 days' written notice to the city.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-48. Contractor licenses authorized.

There shall be two separate classes of licenses authorized for contractors as provided in this division:

- (1) *Class A—General contractor.* A general contractor license shall entitle the holder thereof to construct, remodel, demolish or repair any structure. Said contractor shall not engage in any mechanical (HVAC), plumbing, or electrical services unless also properly licensed as a Class B contractor.
- (2) *Class B—Mechanical, electrical and plumbing contractors.* A Class B license shall entitle the holder thereof to perform mechanical (HVAC) services, plumbing services, or electrical contractor services. Said contractors shall be specifically

licensed for each trade in which they desire to perform work and shall not engage in any work entitled by Class A or Class B contracting services unless also properly licensed to perform said work.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-49. Application form and fee.

The planning and development department shall receive and process contractor license applications. A fee for each contractor license shall be paid prior to issuance of said license, in accordance with the city's schedule of fees. All application and license fees shall be paid without proration. No contractor license may be transferred or reassigned.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-50. Contractor's license—Examinations, license approval, and issuance.

(a) Every Class B contractor applicant shall be licensed by satisfying one or more of the following provisions:

- (1) Obtain or possess a certificate of competency with a 75 percent passing score from ICC contractor examination services or other nationally recognized testing institutions; or
- (2) Hold a Bachelor's degree in engineering, architecture, or construction science from an accredited college or university; or
- (3) Show documentation of five years of related work activity working as a journeyman or masters in their particular trade. Subject to approval by the department.

(b) The planning and development department shall expeditiously process all license applications and adopt reciprocity rules and regulations to allow persons and firms from other cities or states to obtain a contractor's license based upon such person's or firm's ICC contractor examination service in such other city or state or other nationally recognized testing institution. The department shall provide for the recognition of codes-related education provided

by governmental entities, trade associations, contractor education providers, and others for courses and instruction directly related to those codes adopted by the city, region, or state.

(c) The contractor-applicant shall disclose, at the time of application, any current or previous contractor license held in Missouri or any other state and any disciplinary actions taken against such contractor-applicant. If the contractor-applicant is employed by or a principal of a firm, the application shall disclose whether the firm or the firm's employees or principals have had any contractor-related disciplinary action taken against them in Missouri or any other state. No license shall be issued to any contractor-applicant who has had a license suspended or revoked for disciplinary reasons, or who has surrendered a license during any disciplinary proceeding or investigation, within the immediately preceding five years.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-51. Contractor license—Firms/ designated representatives.

Under this division, a firm may obtain, in the firm's name, a contractor's license provided that such firm has at least one full-time employee who is designated by the firm as its representative and such designated representative satisfies one of the requirements of this article. A designated representative must spend a minimum of 500 hours a year carrying out the work of the firm. Whenever a building permit is issued in the name of a firm, the firm shall be subject to these regulations and the jurisdiction of the board of appeals. A contractor's license is not transferable from one person or firm to another person or firm.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-52. Contractor license—Business license.

It shall be unlawful for any person to engage in the business of a contractor without first obtaining a business license as required under the provisions of this Code.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-53. Renewal of license.

(a) Every contractor license shall be issued on a one-year basis to expire on April 30th of the year of expiration as noted on the license. A contractor shall be entitled to renew such contractor's license upon satisfaction of the requirements of this article.

- (1) Any contractor whose license is suspended for any code-related violation must provide satisfactory evidence to the board of appeals that the violation has been corrected in accordance with the applicable code. Failure to provide such evidence may result in the revocation of the contractor's license.
- (2) When a contractor's license is revoked, such contractor may not be re-licensed unless the board of appeals determines that the violation has been corrected.

(b) A license renewal application may be submitted to the city beginning on December 1 through and including the last day of April of the following year without becoming delinquent. Thereafter, a contractor's license shall be delinquent. License renewal applications shall be made available by the planning and development department no later than December 1 of the renewal year to every licensed contractor. The failure to receive an application shall not excuse untimely license renewal.

(c) Any contractor whose license is suspended for any code-related violation must provide satisfactory evidence to the board of appeals that the violation has been corrected in accordance with the applicable code. Failure to provide such evidence may result in the revocation of the contractor's license.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-54. Administrative appeals.

(a) Any contractor-applicant directly affected by the decision of the planning and development department in regard to contractor licensing shall have the right to appeal to the board of appeals exclusively, provided that a written appeal is filed within ten days after the day the decision, notice or order was served. If a person fails

to appeal a decision within ten days as set forth in this section, the decision shall be final and no appeal shall be heard. A written appeal shall be based on a claim that the applicable code provisions have been incorrectly interpreted or applied, or that the decision was based on erroneous facts. The following information must be contained in a written appeal made by any person entitled to appeal:

- (1) A statement of the specific order or action protested together with any material facts claimed to support the contentions of the appellant;
- (2) A statement of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside; and
- (3) The signatures of all parties named as appellants and their official mailing addresses.

(b) Upon receipt of any appeal filed pursuant to this section, the planning and development department shall provide notice to the person of the date, time and place of hearing, where the person will have full opportunity to present evidence and testimony in support of the person's appeal. The hearing shall be conducted as a contested case under the provisions of RSMo ch. 536 and the board of appeals shall issue a final decision within ten days of the hearing date. The decision shall include written findings of fact and conclusions of law. The decision of the board shall be final for purposes of appeal, pursuant to RSMo ch. 536.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-55. Contractor discipline.

(a) The board of appeals shall have the authority to admonish, reprimand, and otherwise discipline any contractor subject to the requirements of this article, including the suspension or revocation of the contractor's license issued under the provisions of this chapter. Before a contractor is disciplined, a hearing shall be held following not less than ten days notice to the effected contractor.

(b) The board of appeals may suspend or revoke a contractor's license if the board concludes, following a hearing, that the contractor's action or inaction is:

- (1) A serious or repeated violation of the provisions of this article, any applicable code, or the failure to comply within a reasonable time to any lawful written order of the building official or the planning and development department;
- (2) A knowing and intentional misrepresentation of a material fact made in connection with obtaining a contractor's license or a permit;
- (3) A fraudulent or deceitful use of a contractor's license to obtain a permit;
- (4) A failure to obtain a permit or to obtain a required inspection of an on-going project as required by any applicable code;
- (5) A failure to exercise regular, routine control and supervision over an on-going project for which the contractor has obtained a permit;
- (6) A failure to timely obtain a final inspection or a certificate of occupancy for a completed structure, prior to occupancy, as required by the applicable building code;
- (7) A failure to hire a licensed electrical, plumbing, or HVAC contractor to perform any electrical, plumbing, or HVAC work on the job site for which the contractor obtained a permit or inspection fee;
- (8) Failure to conduct themselves in accordance with professional standards of conduct or commits misconduct in the course of business; or
- (9) Failure to follow applicable laws.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-56. Board action.

(a) When a ruling by the board of appeals that a contractor has violated one or more of the provisions of this division, the board of appeals

may admonish, reprimand, or take other appropriate disciplinary action against such contractor including, but not limited to:

- (1) Suspension of the contractor's license for a fixed period not to exceed 90 days.
- (2) Suspension of the contractor's license for a fixed period exceeding 90 days, provided however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the board at the expiration of the first 90 days and every 90 days thereafter to determine if just cause exists to modify or terminate the suspension. Such reconsideration may, at the board's option, include a hearing.
- (3) Revocation of the contractor's license for a period not less than 12 months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended three times during any 36-month period.

(b) Any decision of the board of appeals shall be made in writing and mailed to the contractor. A contractor may appeal any decision of the board of appeals to the board of aldermen by filing a notice of appeal with the board of appeals within 30 days following the third day after the written decision of the board of appeals was mailed to the contractor as evidenced by a certificate of mailing which shall be included within the decision. When an appeal is filed, the secretary of the board of appeals shall forward the appeal to the board of aldermen together with the board of appeals record. Appeals to the board of aldermen shall be de novo and no action shall be taken by city officials during a pending appeal.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-57. Safe harbor provision.

A contractor shall not be found in violation of this article, nor disciplined by the board of appeals, for a violation of an applicable building safety code provision if the contractor performs the work in accordance with and reliance upon duly certified plans and specifications prepared or approved by an architect or engineer licensed in Missouri without knowledge by the contractor

that such plans and specifications, or pertinent parts thereof, are in violation of applicable codes. (Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-58. Inactive license.

During the annual renewal period, a licensed contractor may, upon the payment of the fee, set forth in the city's schedule of fees, have the contractor's license declared inactive. No building permit shall be issued to a contractor with an inactive license. The holder of an inactive license may annually renew the inactive license upon the completion of all requirements and the payment of the annual renewal fee. The holder of an inactive license may obtain an active contractor license at any time upon the payment of the required license fee.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-59. Delinquent license.

Any license that has not been renewed prior to and including the last day of April of the year of its expiration shall be declared delinquent. A late fee equal to and in addition to the regular contractor license fee shall be assessed to the contractor-applicant upon renewal. Any license not renewed within one year of its expiration shall be considered a new license and shall be subject to the contractor licensing requirements of this division.

(Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Sec. 22-60. Safety precautions.

No contractor doing business within the city shall permit any unsafe conditions to be left without placement of suitable warning lights, signs, or barriers, and recognized suitable trench safety. Any such violation shall be deemed a public nuisance and may be abated by action for civil damages, or injunction, or both such remedies. (Ord. No. Ord. No. 2024-0003, § 2, 1-23-2024)

Secs. 22-61—22-75. Reserved.

ARTICLE III. PEDDLERS AND SOLICITORS*

DIVISION 1. GENERALLY

Sec. 22-76. Peddling on commercially zoned property.

No peddler shall sell or offer for sale his goods, wares, or merchandise within any commercially zoned property in the city, unless otherwise approved as a special event by the board.
 (Code 1988, § 610.050; Code 1996, § 610.050; Code 2005, § 26-62; Ord. No. 2000-159, § 5, 11-13-2000; Ord. No. 2002-053, § 3, 5-28-2002; Ord. No. 2005-038, § 1(610.050), 3-28-2005; Ord. No. 2015-0023, § 2(26-62), 2-24-2015)

Sec. 22-77. Exception for farmers.

This article does not include and does not apply to farmers selling their vegetables, meat, milk, or other produce, which is raised and produced by the farmers themselves seeking to peddle and sell the same.

(Code 1988, § 610.060; Code 1996, § 610.060; Code 2005, § 26-63; Ord. No. 87-23, § 6, 6-8-1987; Ord. No. 2005-038, § 1(610.060), 3-28-2005; Ord. No. 2015-0023, § 2(26-63), 2-24-2015)

Sec. 22-78. Eligibility.

(a) All peddlers will comply with all other ordinances of the city, including health and traffic codes.

(b) Applicant has not engaged in a pattern of behavior, documented in public records, that causes the police chief to have a reasonable belief that the applicant presents a danger to himself or others.

(c) Applicant passes criminal file background check at applicant's cost.

***State law references**—Merchant, manufacturer, itinerant vendor, and peddler licenses and taxes, RSMo 150.010 et seq.; religious and charitable associations generally, RSMo 352.010 et seq.; state regulation of peddlers, RSMo 150.470 et seq.; state regulation of itinerant vendors, RSMo 150.380 et seq.

(d) Nonprofit 501(c)3 organization's peddlers fee and criminal history check requirement shall be waived if applicant provides the following:

- (1) 501(c)3 documentation.
- (2) Letter from organization supporting the applicant.

(Code 1988, § 610.070; Code 1996, § 610.070; Code 2005, § 26-64; Ord. No. 87-23, § 7, 6-8-1987; Ord. No. 2005-038, § 1(610.070), 3-28-2005; Ord. No. 2011-102, § 1, 10-25-2011; Ord. No. 2015-0023, § 2(26-64), 2-24-2015)

Sec. 22-79. Authority to adopt additional regulations and limit number and type of peddlers.

(a) The mayor and board reserve the right to make additional rules and/or regulations governing peddlers.

(b) The mayor and board may limit the number and type of peddlers when deemed necessary to protect health, safety and welfare of residents of the city.

(Code 1988, § 610.080; Code 1996, § 610.080; Code 2005, § 26-65; Ord. No. 87-23, § 8, 6-8-1987; Ord. No. 2015-0023, § 2(26-65), 2-24-2015)

Sec. 22-80. Special event permit required to solicit.

(a) It shall be unlawful for any person, firm or corporation to solicit on public property within the city without issuance of a special event permit from the board. In addition to the general application requirements for a special event permit, the solicitor shall provide the following information to the planning and development director:

- (1) The name, address and phone number of the organization for whose benefit the public solicitation will be conducted.
- (2) The name, address and phone number of the principal officers of the organization and of the person who will be in charge of solicitation.

- (3) The purpose for which solicitation is to be made, the dates of proposed solicitation, and the method to be used in conducting solicitation.
 - (4) Whether or not professional (compensated) solicitors will be used, and, if so, the name, address, telephone number and city business license number of the solicitor.
 - (5) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed solicitation.
- (b) Special event permits for public solicitation shall be limited to two events per year, each event limited to three days in duration.
- (c) Any person claiming to be legally exempt from the regulations set forth in this article, or from the payment of a permit fee, shall cite to the planning and development director the statute or other legal authority under which exemption is claimed and shall present to the planning and development director proof of qualification for such exemption.
- (d) Each and every person engaged in solicitation under the special event permit shall have a copy of the special event permit on their person and, upon request, shall provide a copy of the special event permit.

(Code 2005, § 26-66; Ord. No. 2005-038, § 1(610.090), 3-28-2005; Ord. No. 2015-0023, § 2(26-66), 2-24-2015; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 22-81. Unlawful solicitation or panhandling.

(a) Except when approved as a special event, it shall be unlawful to solicit when either the solicitor or the person being solicited is located on public property.

(b) It shall be unlawful to solicit or panhandle when either the solicitor or the panhandler is:

- (1) Within 20 feet of a public toilet;
- (2) Within 20 feet of an automated teller machine;

- (3) Within ten feet outside of the doorway to any business.
- (c) It shall be unlawful to solicit or panhandle in an aggressive manner, including taking any of the following actions:
 - (1) Continuing to solicit or panhandle from a person after the person has given a negative response to the solicitation or request;
 - (2) Touching a person without that person's consent;
 - (3) Blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means;
 - (4) Using violent or threatening gestures toward a person;
 - (5) Closely following behind, ahead or alongside a person who walks away from the solicitor;
 - (6) Using profane or abusive language;
 - (7) Soliciting or panhandling in a group of two or more persons; or
 - (8) Soliciting or panhandling with the intent to intimidate another person into giving money or other thing of value.
- (d) It shall be unlawful to solicit or panhandle on residential or private property after having been asked to leave or refrain from soliciting by the owner or other person lawfully in charge of the property or lawfully in possession of the property.
- (e) It shall be unlawful for any person, while soliciting or panhandling, to enter upon any residential premises in the city where the owner, occupant or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or "No Peddling" or words of similar import.
- (f) For reasons of public safety, it shall be unlawful for a person to stand in or enter upon a roadway for the purpose of soliciting or panhandling:
 - (1) Rides from the occupant of any vehicle;

- (2) Employment from the occupant of any vehicle;
- (3) Business or sales of anything from the occupant of any vehicle; or
- (4) Charitable contributions from the occupant of any vehicle.

(g) For reasons of public safety no person shall enter into the roadway for the purpose of distributing anything to the occupant of any vehicle.

(h) The activities in this section are permissible to an occupant of a nonmoving vehicle on the roadway adjacent to a sidewalk if the person is on the adjacent sidewalk and the vehicle is legally parked.

(i) Outside of the provisions contained in this section, nothing contained herein is intended to prohibit panhandling or distribution by any person on a sidewalk to another person on the sidewalk, or by and among persons in a city parking lot or city park.

(j) *Construction.* This section is not intended to create a result through enforcement that is absurd, impossible, or unreasonable. This section should be held inapplicable in any cases where its application would be unconstitutional under the constitution of the state or the Constitution of the United States of America.

(Code 2005, § 26-67; Ord. No. 2005-038, § 1(610.100), 3-28-2005; Ord. No. 2015-0023, § 2(26-67), 2-24-2015)

license for peddling before he peddles goods, wares or merchandise within the corporate limits of the city.

(Code 1988, § 610.010; Code 1996, § 610.010; Code 2005, § 26-91; Ord. No. 87-23, § 1, 6-8-1987; Ord. No. 99-665, § 5, 4-12-1999; Ord. No. 2005-038, § 1(610.200), 3-28-2005)

Sec. 22-107. Fee.

All persons peddling within the corporate limits of the city shall pay a license fee in the amount provided in the city fee schedule.

(Code 1988, § 610.020; Code 1996, § 610.020; Code 2005, § 26-92; Ord. No. 87-23, § 2, 6-8-1987; Ord. No. 2005-038, § 1(610.210), 3-28-2005)

Sec. 22-108. Transfer.

No license issued under provisions of this article shall be transferred to another person.

(Code 1988, § 610.030; Code 1996, § 610.030; Code 2005, § 26-93; Ord. No. 87-23, § 3, 6-8-1987; Ord. No. 2005-038, § 1(610.220), 3-28-2005)

Sec. 22-109. Appeal procedure.

Any person aggrieved by the denial of a peddler's application shall have the right to appeal to the board. The appeal shall be filed with the city clerk and placed as an agenda item at the next regularly scheduled board meeting after its receipt by the city clerk.

(Code 2005, § 26-68; Ord. No. 2011-102, § 1, 10-25-2011; Ord. No. 2015-0023, § 2(26-68), 2-24-2015)

Secs. 22-110—22-131. Reserved.

ARTICLE IV. SECONDHAND GOODS*

DIVISION 1. GENERALLY

Secs. 22-132—22-195. Reserved.

*Editor's note—Ord. No. 2016-0193, § 2, adopted Dec. 13, 2016, amended art. IV in its entirety inasmuch deleted div. 2, §§ 22-161—22-163 entitled "Yard, Rummage and Similar Sales" and renumbered div. 3 as div. 2, to read as herein set out. Former div. 2, derived from: Code 1988, §§ 655.010—655.030; Code 1996, §§ 625.030—625.050; Code 2005, §§ 26-141—26-143; Ord. No. 89-29, § 1, adopted Aug. 14, 1989; Ord. No. 99-665, § 5, adopted Apr. 12, 1999; Ord.

Secs. 22-82—22-105. Reserved.

DIVISION 2. LICENSE

Sec. 22-106. Required.

It shall be the duty of every person peddling for gain, profit, or as means of livelihood within the corporate limits of the city to apply to and secure from the finance director of said city, a

DIVISION 2. PAWNSHOPS AND PAWNBROKERS**Sec. 22-196. Eligibility and qualifications.**

(a) *Generally.* No person shall open and operate a pawnshop unless such person is issued and maintains a city business license. To be eligible for a business license as a pawnshop, an applicant shall:

- (1) Be of good moral character;
- (2) Indicate that the pawnshop will and has been operated lawfully and fairly within the purposes of RSMo 367.011 to 367.060; and
- (3) Have at least \$50,000.00 of net assets available to conduct business as a pawnshop for each business location, calculated using the location's balance sheet at the end of the quarter or calendar year preceding the renewal of the business license. For a new business or location, the month-end balance sheet preceding the date of application shall be used.

(b) *Balance sheet certified by certified public accountant.* If the city is unable to verify that the applicant meets the net assets requirement for a licensed pawnshop, the city may require the presentation of a current balance sheet by an independent certified public accountant showing eligibility in compliance with this division.

(c) *Past criminal history that renders applicant ineligible.* The city may refuse to issue a license for a pawnshop to any applicant whose owner, partner, officer, member, or stockholder has a felony conviction, misdemeanor conviction, guilty plea or plea of nolo contendere which directly relates to the duties and responsibilities of pawnbroker or otherwise makes the applicant presently unfit to obtain a business license to operate a pawnshop.

(Ord. No. 2015-0032, § 2(26-172), 3-24-2015)

No. 2000-004, § 1, adopted Jan. 10, 2000; Ord. No. 2001-113, § 1, adopted Sept. 10, 2001; and Ord. No. 2002-053, § 1, adopted May 28, 2002.

Sec. 22-197. Additional application requirements.

In addition to all other information required from applicants for business licenses in the city, applications to operate a pawnshop shall comply with the following:

Identity information required. The applicant shall provide the full name and home address of each owner, partner, officer, member, and stockholder and other relevant information required by the city.

(Ord. No. 2015-0032, § 2(26-172), 3-24-2015)

Sec. 22-198. Fees.

The pawnshop license or license renewal application shall be accompanied with a payment of licensing and investigation fees as provided in the city fee schedule. The investigation fee shall not be required for application to relocate a pawn shop that currently holds a city license in good standing.

(Ord. No. 2015-0032, § 2(26-174), 3-24-2015)

Sec. 22-199. Receipt for pledged property; reports to police.

(a) At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for the property describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

- (1) The name and address of the pawnshop;
- (2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;
- (3) The date of the transaction;
- (4) An identification and description of the pledged goods, including serial numbers if reasonably available;
- (5) The amount of cash advanced or credit extended to the pledgor;
- (6) The amount of the pawn service charge;

- (7) The total amount which must be paid to redeem the pledged goods on the maturity date;
- (8) The maturity date of the pawn transaction; and
- (9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker 60 days after the specified maturity date.

(b) The pawnbroker may be required, in accordance with local ordinances, to furnish local law enforcement authorities with copies of information contained in subsections (a)(1) through (a)(4) of this section, and information contained in RSMo 367.040(4), (6). The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this section, except that paper copies shall be made available for an on-site inspection upon request of any appropriate law enforcement authority.

(c) If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to RSMo 486.205 to perform notarial acts in this state.

(d) Any pawnbroker licensed after August 28, 2002, shall meet the following requirements:

- (1) Provide all reportable data to appropriate users by transmitting it through the Internet to the database.
- (2) Transmit all reportable data for one business day to the database prior to the end of the following business day.

- (3) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

(Code 1988, § 685.020; Code 1996, § 665.020; Code 2005, § 26-172; Ord. No. 2015-0032, § 2(26-175), 3-24-2015)

State law reference—Similar provisions, RSMo 367.031.

Sec. 22-200. Required records; log book.

These records shall be preserved for a period of not less than two years from the date of the transaction. All entries into such book or log shall be made legibly with ink or other permanent marking.

- (1) *Books and records generally.* Each pawnbroker shall keep, consistent with accepted accounting practices, adequate books and records relating to the licensee's pawn transactions.
- (2) *Log book.* Persons licensed pursuant to this division shall retain the information required by section 26-199 in a substantial, properly maintained book or log.

(Code 1988, § 685.030; Code 1996, § 665.030; Code 2005, § 26-173; Ord. No. 92-25, § 3, 4-27-1992; Ord. No. 2015-0032, § 2(26-176), 3-24-2015)

Sec. 22-201. Access to information by police.

Any pawnbroker, merchant or dealer shall provide, immediately upon request, to the police chief, copies of such original receipts and provide access to the log information contained in section 26-199.

(Code 1988, § 685.040; Code 1996, § 665.040; Code 2005, § 26-174; Ord. No. 92-25, § 4, 4-27-1992; Ord. No. 2015-0032, § 2(26-177), 3-24-2015)

Sec. 22-202. Inspection of goods by police.

Any pawnbroker, merchant or dealer shall make any and all properties and/or goods for sale or loan purposes available for inspection, upon the request of the police chief.

(Code 1988, § 685.050; Code 1996, § 665.050; Code 2005, § 26-175; Ord. No. 92-25, § 5, 4-27-1992; Ord. No. 2015-0032, § 2(26-178), 3-24-2015)

Sec. 22-203. Compliance with other regulations.

Nothing in this division shall relieve pawnbrokers, merchants, dealers, lenders, or other such businesses or persons from adhering to all other federal, state, and local laws, ordinances, and guidelines applicable to their respective business.

(Code 1988, § 685.060; Code 1996, § 665.060; Code 2005, § 26-176; Ord. No. 92-25, § 6, 4-27-1992; Ord. No. 2015-0032, § 2(26-179), 3-24-2015)

Sec. 22-204. Restrictions.

A pawnbroker shall not:

- (1) Accept a pledge from a person who is under 18 years of age.
- (2) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction.
- (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under RSMo 367.011—367.060.
- (4) Fail to exercise reasonable care to protect pledged goods from loss or damage.
- (5) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. If such pledged goods are lost or damaged as a result of pawnbroker negligence while in the possession of the pawnbroker it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kind of merchandise. Lenders shall not be responsible for loss of pledged articles due to acts of God, acts of war, or riots. Each lender shall employ, if reasonably available in his area, a reputable company for the purpose of fire and theft security.
- (6) Purchase or take in trade used or secondhand personal property unless a record is established that contains:
 - a. The name, address, physical description, and the driver's license number, military identification number,

identification certificate number, or other official number capable of identifying the seller;

- b. A complete description of the property, including the serial number if reasonably available, or other identifying characteristic; and
- c. A signed document from the seller providing that the seller has the right to sell the property.

(7) Receive any property in which a serial number has been removed or altered.

(Code 1988, § 685.070; Code 1996, § 665.070; Code 2005, § 26-177; Ord. No. 92-25, § 7, 4-27-1992; Ord. No. 2015-0032, § 2(26-180), 3-24-2015)

State law reference—Similar provisions, RSMo 367.040.

Secs. 22-205—22-225. Reserved.**ARTICLE V. VEHICLES FOR HIRE*****DIVISION 1. GENERALLY****Sec. 22-226. Transportation network companies.**

Transportation network companies fall outside of the provisions of this article and do not require a business license. Beginning August 28, 2017, all transportation network companies will operate within the city as governed by applicable state law.

(Ord. No. 2017-0072, § 2, 6-13-2017)

Secs. 22-227—22-244. Reserved.

***State law references**—Local licensing and regulation of taxicabs and other vehicles for hire in transporting passengers, RSMo 301.340, RSMo 94.110, RSMo 94.360; regulation of motor carriers, RSMo 390.0121 et seq.; authority to operate ambulance service, RSMo 67.300.

DIVISION 2. TAXICABS, COURTESY CARS AND LIMOUSINES

Sec. 22-245. License required.

No person shall engage in the business of transporting passengers for hire within the city except as follows:

- (1) Each vehicle driver must have a valid state driver's license for transporting passengers and have a current year city driver's permit to operate a public transportation vehicle for hire.
- (2) A person operating a vehicle for hire, including limousines, courtesy cars, taxis, horse drawn carriages and shuttles, shall have a valid business license.

(Code 2005, § 26-232; Ord. No. 2001-068, § 615.030, 6-25-2001)

Sec. 22-246. Application for business license.

Application for a business license under this division shall be made to the finance director. Such application shall set forth:

- (1) A full identification of any persons having an interest in the business license.
- (2) The residence, business address, and the citizenship of all members of any company, corporation or partnership and of all officers, directors and stockholders of any corporation making application.
- (3) The number of vehicles, with a minimum of two per business, except for horse-drawn carriage operations, proposed to transport passengers as a public transportation for hire business.
- (4) All taxicabs operating with a city business license shall have a single color scheme distinctly different from other taxicabs operating under a different city business license. This color scheme shall be stated in the application for a city business license.

(Code 2005, § 26-233; Ord. No. 2001-068, § 615.040, 6-25-2001; Ord. No. 2007-117, § 1, 11-13-2007)

Sec. 22-247. License fee; vehicle permit fee.

(a) Annual license and vehicle for hire fees are listed in the city fee schedule.

(b) In addition, a city vehicle permit must be procured for each vehicle each licensing year pursuant to section 22-252.

(Code 2005, § 26-234; Ord. No. 2001-068, § 615.050, 6-25-2001)

Sec. 22-248. Register of vehicle for hire owners or operators.

The finance director shall keep a register of the name and address of each person owning or operating a public transportation for hire business and of every vehicle for hire holding a permit under the provisions of this division, together with the license number or identifying information of each vehicle and driver for hire. (Code 2005, § 26-235; Ord. No. 2001-068, § 615.060, 6-25-2001)

Sec. 22-249. Suspension or revocation of license.

Business licenses for public transportation for hire businesses granted under the provisions of this division shall be subject to the same provisions for suspension and revocation as outlined in section 22-40.

(Code 2005, § 26-236; Ord. No. 2001-068, § 615.070, 6-25-2001)

Sec. 22-250. Minimum service requirements.

Every public transportation for hire business shall regularly and daily operate a permitted vehicle for hire during each day of the licensed year, to the extent reasonably necessary, to meet the public demand for such public transportation service and shall maintain a 24-hour communication service; and, in addition, such licensee shall have available at all times at least two vehicles for taxi service, both of which shall have a radio, or other similar communications system, controlled with a base system located at the taxicab office, which office shall be located so as

to provide off-street parking for the vehicles for hire. Both vehicles for hire during the day shall be staffed and ready for service.
(Code 2005, § 26-237; Ord. No. 2001-068, § 615.080, 6-25-2001)

Sec. 22-251. Surety bond or insurance policy required.

(a) No person shall be licensed to operate a public transportation for hire business until the public transportation owner or operator has complied with all provisions of this division, and with all sections of the state law pertaining to a surety bond or the insurance policy issued for the benefit of any person who might suffer damage by the reason of the operation of such public transportation for hire operation.

(b) Before issuing such business license, the applicant shall submit to the finance director proof of commercial insurance and state motor vehicle registration.

(Code 2005, § 26-238; Ord. No. 2001-068, § 615.090, 6-25-2001)

Sec. 22-252. Display of city vehicle for hire permit.

No person shall drive or operate a public transportation vehicle for hire without having a valid city vehicle for hire permit. The vehicle for hire permit issued by the finance director shall be in the form of a card. Permit cards shall be of a distinctly different color each year. Such cards shall be affixed to the front left dashboard of each vehicle for hire, and visible for inspection inside and outside of the vehicle for hire.

(Code 2005, § 26-239; Ord. No. 2001-068, § 615.100, 6-25-2001; Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-253. Vehicle for hire marking.

Each vehicle for hire operated as a public transportation for hire vehicle shall be marked clearly on the outside of both sides of each vehicle in letters not less than four inches high

and lines not less than three-fourths inch wide with the full name of the business licensee in a color contrasting with the color of the vehicle.
(Code 2005, § 26-240; Ord. No. 2001-068, § 615.120, 6-25-2001)

Sec. 22-254. Vehicle for hire driver's permit.

Every applicant for a permit as a driver of a public transportation vehicle for hire shall make application to the police chief. The applicant shall show proof of a valid state Class E (hauling for hire) driver's license. The fee for the permit is in the amount specified in the city fee schedule.
(Code 2005, § 26-241; Ord. No. 2001-068, § 615.130, 6-25-2001)

Sec. 22-255. Parking on street.

The driver of a public transportation vehicle for hire shall not park upon any street, other than, in the case of a taxi, in a designated taxistand.

(Code 2005, § 26-242; Ord. No. 2001-068, § 615.110, 6-25-2001; Ord. No. 2002-031, § 1, 4-8-2002; Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-256. Applicability; exceptions.

(a) This division shall apply whenever a person to be transported for hire is picked up within the city limits, regardless of destination, but shall not be applicable if the passenger is picked up outside the city limits and is discharged within the city limits.

(b) This division, except as to business licensing, shall not apply to transportation provided as follows:

- (1) By any transportation system which is funded in whole or in part by a federal, state or local governmental agency.
- (2) School buses, common motor vehicles operated under contract with the federal government and motor vehicles having a valid certificate of authorization or permit issued with the state division of transportation, pursuant to RSMo ch.

390, or buses or trolleys, and public transit systems as defined in this chapter.
(Code 2005, § 26-243; Ord. No. 2001-068,
§ 615.020, 6-25-2001)

Sec. 22-257. Taximeters; rates.

(a) *Size and design.* Each taxi licensed to operate in the city shall be equipped with a meter of a size and design approved by the police chief that conforms to the requirements of this section.

(b) *Connection.* Each meter must be driven direct from the vehicle transmission or connected with the speedometer driving shaft to the meter head itself.

(c) *Meter registration.* Each meter must register upon visual counters the following items:

- (1) Total miles.
- (2) Miles paid.
- (3) Number of units.
- (4) Number of trips.
- (5) Number of extras.
- (6) Base rate.

(d) *Switch and distribution system.* Each meter must be furnished with a tamperproof switch and system of electrical distribution so that when the meter flag is in the vacant or nonearning position the vacant sign on top of the vehicle will be lighted, and when the meter flag is thrown to an earning position the fare indicator of the meter will be lighted.

(e) *Rates.* The following rates shall be charged by taxis operating within the city:

- (1) For the first one-tenth mile: \$2.30.
- (2) For each succeeding one-tenth mile or fraction thereof: \$0.16.
- (3) For each one minute of waiting time: \$0.20.
- (4) For each additional passenger to and from the same destination: \$1.00.

(f) *Luggage.* There shall be no additional charge for luggage unless the passenger has more than five pieces of luggage. If a passenger has more than five pieces of luggage, a total of \$1.00 per additional piece of luggage may be charged for each.

(g) *Packages.* In addition to the charges otherwise set out in this section, there shall be a \$1.00 charge above the meter charge for hauling packages without a passenger.

(Code 2005, § 26-244; Ord. No. 2001-068, § 615.140, 6-25-2001)

condition of repair as may be reasonably necessary to provide for the safety of the public and for continuous and satisfactory operation.

(Code 2005, § 26-245(b); Ord. No. 2001-068, § 615.150, 6-25-2001)

Sec. 22-260. Refusal of service.

It shall be unlawful for a driver of a public transportation vehicle for hire to refuse service to a member of the general public, except when such person uses profanity, is abusive, desires to use the service for an illegal purpose, or is unable to pay the metered rates.

(Code 2005, § 26-245(c); Ord. No. 2001-068, § 615.150, 6-25-2001)

Sec. 22-261. Office and telephone required.

No taxi service business license holder shall operate in the city without having an office within the city and a telephone for receiving and dispatching calls.

(Code 2005, § 26-245(d); Ord. No. 2001-068, § 615.150, 6-25-2001)

Sec. 22-262. Smoking by driver prohibited.

Drivers of vehicles for hire are prohibited from smoking while carrying passengers.

(Code 2005, § 26-245(e); Ord. No. 2001-068, § 615.150, 6-25-2001)

Sec. 22-263. Denial of license or permit.

No license or permit shall be issued to any applicant under this division that has failed to:

(1) Pay any obligation due the city including sales tax, real or personal property tax, or water/sewer bill; or any license tax, fee or assessment owed to the city; or

(2) Comply with any lawfully imposed building, health, safety, or zoning code or other ordinance.

(Code 2005, § 26-245(f); Ord. No. 2001-068, § 615.150, 6-25-2001)

Secs. 22-264—22-290. Reserved.

DIVISION 3. PUBLIC TRANSIT SYSTEMS

Sec. 22-291. Plan of operation required; contents.

(a) *Submittal of plan.* Prior to beginning operation within the city, any trolley or bus operator of a proposed public transit system within the city proposing to operate within the city limits shall submit a plan of operation to the finance director.

(b) *Contents.* The proposed plan of operation shall at a minimum include the following information:

- (1) *Vehicle type and number.* The trolley or bus operator will include a list of the number and type of each trolley or bus proposed to be operated within the city. The trolley or bus operator will attach descriptive literature, specifications, photographs and illustrations sufficient to allow the board to evaluate the design and appearance of each trolley. The vehicle list will include a list of the proposed number of trolleys or buses to run year-round and those proposed to run for only part of the year.
- (2) *Manufacturer's certification.* The trolley or bus operator will include a manufacturer's certification for all trolleys and/or buses proposed for use including vehicle identification number or serial number of those certified.
- (3) *Financial statement.* The trolley or bus operator shall submit financial information sufficient in detail and form to the board to prove the ability by the trolley or bus operator to provide uninterrupted service.
- (4) *Proof of insurance.* The trolley or bus operator shall provide a certificate of insurance in accordance with section 2-287.
- (5) *Route map.* The trolley or bus operator will submit a well-labeled, easily read map of the city with all routes marked in contrasting colors. The routes will be identified as proposed on the route schedule. The location of proposed stops will be listed and identified on the map as well.

- (6) *Route schedule.* The trolley or bus operator will submit the proposed bus schedule showing daily schedules for all stops listed on the route map. The stops will indicate estimated bus stop times for weekdays, weekends and holidays for each month of the year. In addition, the trolley or bus operator will indicate which routes and stops are to be used yearround and which ones are to be used during part of the year only.
 - (7) *Maintenance facilities.* The trolley or bus operator will furnish the proposed locations of all maintenance facilities used to maintain trolleys.
 - (8) *Fares.* The trolley or bus operator will furnish a proposed list of fees showing rates for single trips and daily, weekly, monthly and annual passes.
 - (9) *Bus stops.* The trolley or bus operator will provide descriptive material and drawings relative to any bus stop proposed for location on the right-of-way.
 - (10) *Other information.* The trolley or bus operator will furnish other information which may be requested by the board in evaluation of the plan of operation.
- (Code 1988, § 670.020; Code 1996, § 650.020; Code 2005, § 26-272; Ord. No. 90-11, § 1, 4-23-1990; Ord. No. 99-665, § 5, 4-12-1999; Ord. No. 99-959, § 21, 10-11-1999)

Sec. 22-292. Approval of plan of operation.

(a) After submittal of the plan of operation, the finance director shall, within 14 days, schedule a public hearing to determine if public necessity and convenience will require the operation of the public transit system as outlined in the plan of operation.

(b) The board, at the conclusion of the public hearing, may grant, deny or modify authority to operate or request more information relative to the proposed plan of operation and the request to operate a public transit system within the city.

(c) If approved by the board, the trolley or bus operator shall operate the trolleys or buses and public transit system as set out in the approved plan of operation.

(Code 1988, § 670.030; Code 1996, § 650.030; Code 2005, § 26-273; Ord. No. 90-11, § 1, 4-23-1990; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 22-293. Modification of plan of operation.

(a) A trolley or bus operator wishing to modify an approved plan of operation will submit items to be modified to the finance director. The finance director will initiate the hearing process as outlined for initial plan approval as outlined in section 22-292. The board and the trolley or bus operator will follow the process outlined in section 22-292 when considering modifications to approved plans of operation.

(b) It shall be unlawful for any bus or trolley to be used for transportation of the general public in the city without a plan of operation approved by the board. It shall also be unlawful for any trolley or bus operator to modify the plan of operation without the approval of the board as outlined in this division. This division is not applicable to chartered or privately hired buses or trolleys.

(c) This approval shall be subject to review on an annual basis, on the anniversary date of the date the trolley or bus operator commenced business.

(Code 1988, § 670.040; Code 1996, § 650.040; Code 2005, § 26-274; Ord. No. 90-11, § 1, 4-23-1990; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 22-294. Granting of authority to operate.

(a) If the plan of operation proposed by a trolley or bus operator is approved by the board, as outlined in section 22-292, then the trolley or bus operator shall be granted the privilege to use public streets, avenues and roads in operation of a public transit system.

(b) The privilege to operate shall at all times be subject to the trolley or bus operator meeting all requirements of this division and such privilege shall be subordinate to the dominant right of the public to use streets, avenues and roads.

(c) Any authority to operate granted a trolley or bus operator under this section shall not be exclusive and the city reserves the right to grant the same privileges to other trolley or bus operators at any time deemed to be in the public interest.

(Code 1988, § 670.050; Code 1996, § 650.050; Code 2005, § 26-275; Ord. No. 90-11, § 1, 4-23-1990)

Sec. 22-295. Approval of fares, routes, and stops.

(a) The board of the city shall review the schedule of rates, and if the board deems the schedule to be unreasonable the license may be revoked, or the trolley or bus applicant-owner/operator may be permitted to show cause to the board why the rates would be fair, and the action of the board shall be final as for all actions of the city in connection with the licenses.

(b) The trolley or bus operator shall operate its trolleys or buses only on the routes and stops established and approved as part of the plan of operation. Routes and stops shall be subject to regulation by the board and may be changed from time to time at the request of the trolley or bus operator by the process outlined in section 22-293. (Code 1988, § 670.060; Code 1996, § 650.060; Code 2005, § 26-276; Ord. No. 90-11, § 1, 4-23-1990)

Sec. 22-296. Condition of equipment; inspections; permit tags.

(a) Every trolley or bus operator granted the privilege to operate a public transit system in the city is required to keep all buses and trolleys permitted under this section clean and in good repair at all times they are in use as part of the public transit system.

(b) Prior to actual use, each bus or trolley shall be inspected by the police chief. Upon passage of inspection the police chief will issue the trolley or bus operator a permit tag to be conspicuously displayed on the inspected bus or trolley. The number of tags issued to any trolley or bus operator shall be limited to the number of buses or trolleys approved in the plan of operation and shall include serial number or vehicle identification numbers submitted as part of the plan of operation.

(c) All permitted buses shall be reinspected annually by the police chief on the anniversary date of their initial inspection and permit.

(d) Permit tags used under this section shall be in form and substance approved by the police chief. Permit tags shall be issued without charge. (Code 1988, § 670.070; Code 1996, § 650.070; Code 2005, § 26-277; Ord. No. 90-11, § 1, 4-23-1990)

Sec. 22-297. Drivers to be licensed; obedience to applicable laws.

(a) Every person driving a bus or trolley approved under this division must be licensed as a chauffeur under the state vehicle operator's license law.

(b) Every person driving a bus or trolley approved under this division shall abide by all applicable state laws and city ordinances when operating the bus or trolley.
(Code 1988, § 670.080; Code 1996, § 650.080; Code 2005, § 26-278; Ord. No. 90-11, § 1, 4-23-1990)

Sec. 22-298. Indemnification of city.

The trolley or bus operator shall indemnify the city and its officers from any liability for injury or damage arising from any casualty to persons or property due to the negligence, omission or willful, wrongful act of the trolley or bus operator in connection with the operation under this division. The trolley or bus operator shall indemnify the city and its officers from any liability for injury or damage to persons or property arising from a failure of the city or its officers to compel, supervise or inspect any construction, reconstruction, maintenance or operation of the trolley or bus operator's company. If an action is filed against the city either individually or jointly with the trolley or bus operator's company claiming damage or injury arising from circumstances outlined in this section, the trolley or bus operator, upon notice from the city, shall defend the city either individually or jointly with the trolley or bus operator in the action as the city elects. The trolley or bus operator will pay any judgments for costs rendered against the city, its officers, agents or representatives, individually or jointly with the

trolley or bus operator. The provisions of this section shall not constitute a waiver of immunity provisions granted the city.

(Code 1988, § 670.090; Code 1996, § 650.090; Code 2005, § 26-279; Ord. No. 90-11, § 1, 4-23-1990)

Secs. 22-299—22-330. Reserved.

DIVISION 4. MOPEDS

Sec. 22-331. Service requirements for rental owners.

Every rental owner is required to furnish safe and adequate service to the general public or the citizens of the city who shall rent mopeds. Every rental owner is required to provide safe equipment in good working order, and shall allow no person to operate a moped without protective head device, per department of transportation standards. Protective head devices shall be furnished by every owner for each moped operator and moped passenger, and must be worn by the moped operator and moped passenger at all times. (Code 1988, § 675.020; Code 1996, § 655.020; Code 2005, § 26-302; Ord. No. 90-1, § 2, 1-8-1990)

Sec. 22-332. Inspection of rental vehicles required prior to issuance of merchant's license.

It shall be the responsibility of the rental owner to obtain inspection for all rental vehicles on a yearly basis at time of city merchant's license renewal and prior to initial receipt of a city merchant's license. Inspections shall be conducted by the police chief and written approval of rental vehicles' safe condition and required equipment in accordance with state statute shall be presented to the finance director prior to issuance of the merchant's license.

(Code 1988, § 675.030; Code 1996, § 655.030; Code 2005, § 26-303; Ord. No. 90-1, § 3, 1-8-1990; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 22-333. Periodic inspection of rental vehicles.

The police chief and other officers as designated shall periodically inspect all rental vehicles

and see that they are kept in a safe condition of continued fitness and in accordance with state statute for public use.

(Code 1988, § 675.040; Code 1996, § 655.040; Code 2005, § 26-304; Ord. No. 90-1, § 4, 1-8-1990)

Sec. 22-334. Proof of age and valid driver's license required for moped operators.

(a) Every moped operator shall be at least 16 years of age, and shall possess a valid driver's license.

(b) It shall be the responsibility of the renter to obtain proof of age and proper licensing before renting to any person. Licensing must be in accordance with state statute for vehicles rented.
(Code 1988, § 675.050; Code 1996, § 655.050; Code 2005, § 26-305; Ord. No. 90-1, § 5, 1-8-1990)

Sec. 22-335. Surety bond or insurance policy required.

(a) No rental owner as defined in this chapter shall be licensed to operate a moped rental business until he has complied with all provisions of this division and with all sections of state law pertaining to a surety bond or the insurance policy issued for the benefit of any person who might suffer damage through the operation of such vehicle or unsafe condition of such vehicle.

(b) Before issuing such license, the applicant shall submit to the finance director proof of having in force and effect, for the 12 months following, liability insurance with a minimum coverage of \$10,000.00 per person and \$20,000.00 per accident for personal injury, together with the minimum of \$5,000.00 property damage, and such insurance shall be kept in force and effect throughout the license period.

(Code 1988, § 675.060; Code 1996, § 655.060; Code 2005, § 26-306; Ord. No. 90-1, § 6, 1-8-1990; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 22-336. Compliance with applicable regulations; duties of rental owner.

It shall be the duty of all owners of moped rental businesses to not only abide by all state laws and city ordinances governing operation and

maintenance of such business, but to ensure proper and responsible adherence to state law and city ordinance by all parties renting vehicles, by advising the parties renting vehicles of such requirements and laws, by making physical checks of required licensing and providing parties renting vehicles with necessary safety equipment per state statute, and equipment that is deemed necessary and proper for safe vehicle operation. Advice of requirements of state and local laws shall include furnishing a written statement (which is on file in the office of the finance director) which outlines city moped regulations. This statement may be incorporated in the rental contract in lieu of furnishing a separate copy. A copy thereof shall also be posted on the business property in a conspicuous place.

(Code 1988, § 675.070; Code 1996, § 655.070; Code 2005, § 26-307; Ord. No. 90-1, § 7, 1-8-1990; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 22-337. Duties of moped operators.

It shall be the duty of all moped operators and moped passengers governed by this division to abide by all applicable state laws and city ordinances. To this end, any moped operator or moped passenger operated within the city shall wear a protective head device, per department of transportation standards. All moped operators must be at least 16 years of age and possess a valid driver's license and comply with all state and local traffic laws while operating a moped.

(Code 1988, § 675.080; Code 1996, § 655.080; Code 2005, § 26-308; Ord. No. 90-1, § 8, 1-8-1990)

Sec. 22-338. License fees and application.

A rental owner, in applying for a new license or renewal of a license, shall make application to the finance director upon a form to be furnished by the city, which shall be completed with the full name and address of the applicant and a complete list including vehicle specifications and vehicle identification numbers, and shall report all vehicle transfers and changes immediately upon change. Fees will be assessed for the license in accordance with standard current city licensing fees.

(Code 1988, § 675.090; Code 1996, § 655.090; Code 2005, § 26-309; Ord. No. 90-1, § 9, 1-8-1990; Ord. No. 99-665, § 5, 4-12-1999)

Secs. 22-339—22-364. Reserved.**DIVISION 5. TOWING/WRECKER SERVICES****Sec. 22-365. Merchant's license required; business address.**

(a) All towing and wrecker services, companies, firms, businesses and individuals providing routine services within the city must possess a valid and current city merchant's license.

(b) All such towing services must provide one address for the business the police department may use as a reference location for calls in which a wrecker is needed immediately, and in these instances the closest wrecker service to a situation shall be notified in lieu of rotation if, in the opinion of the officer at the scene, an immediate response service is required for health or safety, or in cases in which roadways are blocked and traffic flow must be reinstated as soon as possible. (Code 1988, § 690.020; Code 1996, § 670.020; Code 2005, § 26-331; Ord. No. 93-38, § 2, 5-10-1993; Ord. No. 95-121, § 2, 10-23-1995)

Sec. 22-366. Rotation list generally; right of drivers to choose towing service.

(a) A towing/wrecker service rotation list will be maintained within the police department to provide for the fair and equitable handling and dispatching of wrecker calls and needs, provided such services meet and abide by all guidelines and requirements as set forth in this division. Any towing company, firm, business or individual that fails to comply with all conditions, requirements and guidelines of this division will be removed from the rotation list by the police chief. Those services on rotation shall be notified in rotating order within noted guidelines.

(b) Any citizen whose vehicle is disabled on any city street or property may request the assistance of any towing service of their preference and the police department will endeavor to contact such service on behalf of the citizen, as applicable, provided such towing service is licensed by the city. This provision shall not apply in situations where the city is taking custody of

the vehicle, or if the driver/owner of the vehicle is incapacitated or otherwise unable or unwilling to make such preference choice within reasonable time.

(Code 1988, § 690.010; Code 1996, § 670.010; Code 2005, § 26-332; Ord. No. 93-38, § 1, 5-10-1993; Ord. No. 95-121, § 1, 10-23-1995)

Sec. 22-367. Approval of placement on rotation list; use of rotation list.

Wrecker services wishing to be placed on rotation for calls shall be placed on the rotation list after showing proof of a current city merchant's license and completing proper application to the police chief in a form designed by the chief and maintained by and within the police department, and upon the chief's determination that the person is duly licensed and has agreed to meet all criteria set forth in this division. Wrecker/towing services requesting placement on the list do so with the understanding that:

- (1) Citizens may request a preference tow and shall receive such attention as requested and applicable, as a first option.
- (2) If an emergency exists, including, but not limited to, a roadway access being blocked, and/or traffic is such that the need exists for immediate removal of vehicles or other obstacles in roadway as soon as possible, and a wrecker service's business location is such that its close proximity to the situation/scene and its availability enables immediate response, that wrecker shall be notified in lieu of the rotation list.
- (3) As a third step in wrecker call-out, the wrecker rotation list will be incorporated and the next wrecker service in line will be called by the police department for service. A call refused by any wrecker service shall be counted as a turn in rotation and the next available service in line of rotation will be notified and requested.

(Code 1988, § 690.050; Code 1996, § 670.050; Code 2005, § 26-333; Ord. No. 93-38, § 5, 5-10-1993; Ord. No. 95-121, § 5, 10-23-1995)

Sec. 22-368. Service requirements and guidelines for inclusion on rotation list.

(a) All wrecker services requesting to be included on the rotation list shall meet the following requirements and guidelines:

- (1) Provide 24-hour-per-day services, seven days a week, and must respond as requested on a routine basis, unless such service has equipment or vehicle problems or other problems such as illness, etc., that would prevent the service from responding as requested on a normal basis. If problems or situations arise that prevent a wrecker service from responding, it shall be the service's responsibility to notify the police department as soon as possible of such problem and provide a length of time for which their service will be unavailable.
- (2) Shall maintain business auto liability insurance written by a company authorized to do business in the state, naming and protecting the towing company and the city against claims for damages resulting from:
 - a. Bodily injury, including wrongful death;
 - b. Personal injury liability; and
 - c. Property damage which may arise from operations by such towing company.

The minimum acceptable limits of liability to be provided by such insurance shall be \$350,000.00.

(b) Towing company personnel responding to a scene in which debris is left or scattered on the roadway shall be responsible for removal from the roadway, right-of-way or private property, and the hauling away, of all vehicle parts, glass and/or any other debris which is attributable directly or indirectly to the cause for such debris (i.e., vehicle accident), but only after authorization to do so has been given by the investigating police officer at the scene of such accident. Such person, however, shall not be required to clean up liquids or large spills of solid materials which

require lengthy or specialized cleanup or any material classified as hazardous by the federal department of transportation.

(c) Subcontracting of wrecker services shall not be allowed of any wrecker services placed or maintained on the rotation list.

(Code 1988, § 690.030; Code 1996, § 670.030; Code 2005, § 26-334; Ord. No. 93-38, § 3, 5-10-1993; Ord. No. 95-5, § 1, 1-23-1995; Ord. No. 95-121, § 3, 10-23-1995)

Sec. 22-369. Removal from rotation list.

(a) At any time a towing/wrecker service is under litigation for services or is under investigation by any law enforcement agency or other bona fide agency of the city, county, state or federal authorities for any reason relating to such towing/wrecker service, that wrecker service shall be removed from the city rotation method until such time that the investigation is completed and it is determined that no criminal or other charges are found and/or determined.

(b) If such investigation involves alleged criminal activity on the part of the towing/wrecker service and/or owners/managers of such company, and the owners/managers are convicted in criminal court for such criminal activity, the police chief is directed to remove the service from the city rotation system.

(Code 1996, § 670.100; Code 2005, § 26-335; Ord. No. 95-121, § 10, 10-23-1995)

Sec. 22-370. Vehicle markings.

Tow services licensed for business in the city shall, at all times, display the company name and/or name of the business owner/operator on each side of every wrecker used by such company and in a prominent location and of a size adequate to be visible and legible.

(Code 1988, § 690.060; ; Code 1996, § 670.060; Code 2005, § 26-336; Ord. No. 93-38, § 6, 5-10-1993; Ord. No. 95-121, § 6, 10-23-1995)

Sec. 22-371. Changes in information.

All towing services wishing to maintain their place on the rotation list shall maintain a current permit/application on file with the police

chief and shall renew the permit/application yearly following the purchase of a city merchant's license, and shall be responsible for contact and update of such application within one week of any time any information on the application is changed.

(Code 1988, § 690.070; Code 1996, § 670.070; Code 2005, § 26-337; Ord. No. 93-38, § 7, 5-10-1993; Ord. No. 95-121, § 7, 10-23-1995)

Sec. 22-372. Exceptions.

Nothing in this division shall be applicable to officers or other bona fide emergency personnel employed by agencies other than the police department if such officers or personnel request dispatch assistance through the police department dispatch center. They may set their own requirements and guidelines exclusive of this division. However, if a request is given to police department dispatch as a no preference call, the rotation list will be used and the dispatcher shall request the next appropriate wrecker service as determined by rotation, and, upon successful use, the service shall then be counted as a use and moved to the end of list.

(Code 1988, § 690.080; Code 1996, § 670.080; Code 2005, § 26-338; Ord. No. 93-38, § 8, 5-10-1993; Ord. No. 95-121, § 8, 10-23-1995)

Sec. 22-373. Phone service.

All towing/wrecker services that wish to be used/notified or otherwise contacted by the city for their services, whether licensed or not by the city, and whether on the rotation system or not, shall maintain a phone service that requires no long distance service/phone charge be encumbered by the city. Only local calls or toll free numbers will be used for requesting tow services.

(Code 1996, § 670.090; Code 2005, § 26-339; Ord. No. 95-121, § 9, 10-23-1995)

Sec. 22-374. Response time.

Towing/wrecker services wishing to be placed on the rotation list will be required to provide the estimated time of arrival and/or estimated driving time to the requested location. Response to such location must be reasonable and must be within indicated time barring unforeseen,

unavoidable time-delaying incidents. If timely response and response timeframes are not adhered to, the police chief may remove the towing/wrecker service from the rotation list until such problems and/or delays can be addressed and rectified.

(Code 1996, § 670.110; Code 2005, § 26-340; Ord. No. 95-121, § 11, 10-23-1995)

Sec. 22-375. Wrecker service solicitation prohibited.

No person shall solicit in any manner, directly or indirectly, on the streets of the city, or at any situation or scene under the control or direction of police department personnel, business involving any vehicle which is disabled or wrecked within the corporate limits of the city, regardless of the method or means by which such wrecker service learned of such need. Wrecker services shall not attempt to remove vehicles or assist officers at any scene or situation falling within the scope of this division unless such wrecker company was first requested and been authorized to do so by the police department or officer on the scene, or by any citizen involved in situation, provided request by such citizen was made prior to the officer's arrival or request to the police department for assistance.

(Code 1988, § 690.040; Code 1996, § 670.040; Code 2005, § 26-341; Ord. No. 93-38, § 4, 5-10-1993; Ord. No. 95-121, § 4, 10-23-1995)

Secs. 22-376—22-399. Reserved.

DIVISION 6. HORSE-DRAWN CARRIAGES FOR HIRE*

Sec. 22-400. Business license required.

(a) License required.

- (1)** No person shall operate a business involving the use of one or more horse-drawn carriages on the streets of the city unless

*Editor's note—Ord. No. 2016-0053, § 2, adopted May 24, 2016, set out provisions intended for use as div. 6, §§ 22-300—22-325. Due to same section numbers already in existence and to preserve the style of this Code, at the editor's discretion, these provisions have been included as div. 6, §§ 22-400—22-426.

such person is issued and maintains a city business license for such business. No license shall be issued until all required permits are obtained.

- (2) Application for the license shall be made on forms provided by the city and shall provide information as is required for other business license applications and such additional information as may be necessary to define completely the business operation and meet the requirements of this chapter.
- (3) The application shall include a thorough description of the proposed manner and location in which the applicant proposes to feed, shelter, quarter, stable and otherwise care for the animals to be used in the business, and the method to be used in transporting the animals within and without the city.
- (4) The business license shall be displayed in a conspicuous place on the outside of the carriage.
 - (b) *Fixed place of business required.* Each horse-drawn carriage company, as a condition for holding a license, shall establish and maintain a fixed headquarters on private property for the operation of the company's business whether inside or outside the city. Any headquarters maintained in the city shall conform to the ordinances of the city, and shall provide adequate off-street parking space for all horse-drawn carriages not in service on the streets.
 - (c) *Operating regulations.* In addition to the license requirements, no license shall be issued for any horse-drawn carriage business unless the business complies with the requirements outlined in this division. Any applicant who refuses or fails to comply with the requirements of this division shall not be issued a business license until proof of compliance is presented by the applicant. The licensing requirements shall be ongoing as requirements for continuous operation.
 - (d) A business license may be suspended or revoked for any violations made under this division, including but not limited to, the suspen-

sion or revocation of the carriage permit, horse permit or driver's permit. Business licenses granted under the provisions of this division shall be subject to the same procedures for suspension and revocation as outlined in section 22-40.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-401. Number of horse-drawn carriage license; number of carriages operating.

A maximum of two business licenses at any given time shall be issued. Each business license is allowed to have in operation a maximum of three permitted carriages at any given time.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-402. License and permit fees.

(a) Annual license fees are listed in the city fee schedule.

(b) In addition, a permit shall be procured for each carriage, each horse and each driver. Annual permit fees are listed in the city fee schedule.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-403. Horse-drawn carriage driver's permit required.

Driver's permit required. No person shall operate a horse-drawn carriage for hire upon the streets of the city, and no person who owns or operates a horse-drawn carriage company shall allow a horse-drawn carriage to be driven, and no horse-drawn carriage operating under a horse-drawn carriage company licensed by the city shall be driven at any time for hire, unless the driver of the horse-drawn carriage shall first have obtained and shall have then in force a horse-drawn carriage driver's permit issued under the provisions of this division.

- (1) *Application.* Any person desiring a driver's permit required by this division shall submit an application in writing to the city's police department, on a form to be furnished.
- (2) *Physician's certificate required.* Each application for a horse-drawn carriage driver's permit shall be accompanied by

- a certificate from a licensed physician certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver. Additionally, certify the applicant is physically capable of handling and controlling a horse-drawn carriage with essential physical demands such as: standing, walking and controlling a horse on uneven terrain; climbing in and out of a carriage; gripping and strength to control reins; hearing and seeing in traffic; understand and carry out emergency procedures if needed and ability to work in heat, humidity and cold. In the case of renewal of a driver's permit, the certificate shall be updated every year.
- (3) *Qualifications of applicant.* An applicant for a horse-drawn carriage driver's permit under this division must not be less than 18 years of age, with no physical infirmities which might make the applicant an unsafe or unsatisfactory horse-drawn carriage driver. No driver's permit shall be issued to any person who has been convicted of operating a motor vehicle while under the influence of intoxicating beverages or drugs within one year prior to the date of the application for such driver's permit or who has been convicted of the offenses three or more times within five years prior to the date of the application for the driver's permit. No driver's permit shall be issued to any person who has been convicted for cruelty to animals or is a registered sex offender.
- (4) *Current driver's record.* Any person applying for a horse-drawn carriage driver's permit under this division shall not have any current restraints associated with their driver's record, regardless of state of issue.
- (5) *Examination of applicant, issuance or denial of driver's permit.* It shall be the duty of the police department to examine the applicant, police and traffic record, and other required documentation, and thereafter to either grant or refuse the

driver's permit. In the event of a refusal to grant a driver's permit, the applicant shall have the right to enter an appeal as provided in subsection 22-404(d) of this division.

- (6) *Alteration of driver's permit prohibited.* It shall be unlawful for any person willfully to alter, deface, obliterate or destroy a horse-drawn carriage driver's permit or cause or allow the same.
- (7) *Driver's permit not transferable.* Any horse-drawn carriage driver's permit issued under this division is not transferable and is to be used solely by the person to whom it is issued.
- (8) *Duration of driver's permit; renewals.* Any horse-drawn carriage driver's permit shall be in effect for 12 months from the date of issue. Driver's permits may be renewed, upon application and payment of the required fee, for each 12-month period thereafter, unless the driver's permit for the preceding period has been revoked or is under suspension.

(Ord. No. 2016-0053, § 2, 5-24-2016; Ord. No. 2018-0097, § 2, 9-25-2018)

Sec. 22-404. Horse-drawn carriage driver's permit suspension or revocation.

(a) *Suspension of the horse-drawn carriage driver's permit.* The police chief shall have the authority to suspend a horse-drawn carriage driver's permit for the following reasons:

- (1) Making any false statement in the application for the person.
- (2) Operating a horse-drawn carriage in violation of any provision of this Code or state law.

Any suspension shall be in writing to the driver. The suspension by the police chief shall be lifted upon dismissal or dropping of the charges described; upon satisfactory correction of any false statement in the application; upon correction of the violation of any provision of this division; or upon ruling in

favor of the driver in any hearing before the administrative hearing officer. From the decision of the police chief to suspend a driver's permit, the holder of such driver's permit shall have the right to appeal to the administrative hearing officer as set forth in subsection (d) of this section.

(b) *Revocation of horse-drawn carriage driver's permit.* In the event any driver holding a driver's permit under this division at any time ceases to meet any of the qualifications or fails to correct satisfactorily any false statement made in the application for the driver's permit or fails to operate his horse-drawn carriage in accordance with the provisions of this division, the administrative hearing officer shall be empowered to revoke permanently the driver's permit or to restore the same. The ruling to revoke a driver's permit shall be in writing.

(c) *Driving after suspension or revocation.* It shall be unlawful for any person to operate a horse-drawn carriage for hire for the carriage of passengers during any period in which his driver's permit to do so is suspended or revoked in accordance with the provisions of this division.

(d) *Appeals.* Appeals to the decisions of the police chief shall be conducted as set forth in the Code regarding administrative hearing procedures. In summary those procedures include:

- (1) Appellant can appeal the police chief's final ruling regarding revocation of the driver's permit to the administrative hearing officer.
- (2) A hearing shall be set after the appeal's request is received and a notice of hearing shall be delivered to the appellant.
- (3) Appellant has the right, but is not required, to be represented by an attorney.
- (4) Upon conclusion of the hearing, the administrative hearing officer shall issue a final determination affirming, amending and affirming, or reversing the appealed decision.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-405. Carriage and equipment permit required.

Carriage permit required. No carriage shall be used for the operation of a horse-drawn carriage upon the streets of the city unless the carriage has been issued a permit under the provisions of this division.

- (1) Every horse-drawn carriage shall have a sign plainly painted on each side of the vehicle, in letters not less than four inches high, containing the full name of the horse-drawn carriage company operating the vehicle, which shall be the same as listed on the business license. The carriage company's phone number may be allowed.
- (2) There shall be painted on each side and on the rear of each horse-drawn carriage a number at least six inches high, the number to be a separate and distinct number. The number shall be assigned to such horse-drawn carriage and the owner thereof by the finance department and shall not be altered or changed without the consent of the finance department.
- (3) The number assigned a horse-drawn carriage in accordance with this division together with the names of the owner and operator of the horse-drawn carriage shall be registered and kept by the finance department.
- (4) Every horse-drawn carriage operated on the streets of the city shall be maintained in a safe mechanical condition, with all safety equipment remaining intact and operative at all times when the horse-drawn carriage is in service. Regulations, procedures and forms shall be developed by the police department.
- (5) Each horse-drawn carriage shall be equipped to meet all state requirements, including but not limited to RSMo 307.125.
- (6) Each horse-drawn carriage shall have on board at all times a 2½ pound 1A5BC fire extinguisher and a class A first aid kit.

- (7) Wagons which were designed for cargo instead of passengers will not be approved.
- (8) Each vehicle operating under this division shall be kept painted and in a clean and sanitary condition, free of litter and debris and at all times suitable for public transportation of passengers.
- (9) Each horse-drawn carriage shall be inspected by the police department for compliance with the provisions of this division and shall pass the inspection before the vehicle may be permitted and used as a horse-drawn carriage in the city. Each horse-drawn carriage involved in an accident shall be inspected by the police department before it may be returned to service transporting passengers for hire. Each horse-drawn carriage shall be inspected by the police department at least once in each six-month period to insure continued compliance with the provisions of this division.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-406. Authority for removal of horse-drawn carriages from streets; suspension or revocation of carriage permit.

The police department shall have the authority to remove from operation on the streets of the city any carriage used as a horse-drawn carriage which is in violation of this division and to suspend or revoke the carriage permit until all deficiencies have been corrected. The notice to revoke or suspend the carriage permit shall be in writing to the business owner or permittee, if different than the business owner. An order of the police department to revoke the carriage permit may be appealed to the administrative hearing officer as provided in subsection 22-404(d) of this division.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-407. Horse permit required.

Horse permit required. No horse shall be used for the operation of a horse-drawn carriage upon

the streets of the city unless the horse has been issued a permit under the provisions of this division.

- (1) The owner or permittee is required to pay the cost of and provide the city with documentation on all horses in which a horse permit is sought. Specifically, every horse shall be examined prior to use in a horse-drawn carriage business, by a state licensed veterinarian, who shall certify the fitness of the horse to perform such work. The horse shall be examined for his or her general physical condition, which is to include inspection of the teeth, legs, hooves and shoes, cardiovascular system, and for his or her physical ability to perform the work or duties required of it. The exam shall also include a record of any injury, disease, or deficiency observed by the veterinarian at the time, together with any prescription or humane correction of the same.
- (2) A statement of soundness shall be provided on the veterinarian's letterhead and signed by the supervising veterinarian, for each horse for every six months of service, clearly stating that the individual animal is in sound health, and is an appropriate size, physical condition and weight for the task for which it will be used.
- (3) The following shall be attached separately to the application for each animal:
 - a. The horse's name, age, color description and unique markings.
 - b. A photograph of the animal, clearly demonstrating the color and markings.
 - c. A horse condition score sheet using the Henneke System, properly completed and signed by the examining veterinarian, and the individual horse's score. (The minimum acceptable body condition score for horse-drawn carriage use is 4, with a score of 5 being ideal.)

- d. A written veterinary supervised health care plan for the individual animal, including documentation of the following by the supervising veterinarian:
 - 1. Hoof care maintenance and trimming every six to eight weeks, or as directed by the supervising veterinarian, or a farrier.
 - 2. Worming every eight weeks, based on a protocol recommended by the supervising veterinarian.
 - 3. Vaccinations as recommended by the supervising veterinarian, against tetanus, rabies, influenza and any other vaccinations deemed prudent and advisable for our geographic region.
 - 4. Annual dental exam and necessary treatment to ensure adequate food digestion.
 - 5. Evidence of nutritious food in sufficient quantity.
 - 6. Acceptable documentation for this veterinary supervised health plan includes veterinary receipts that specify the horse, farrier receipts specifying the horse, and feed store receipts.
- (4) No animal having open sores or wounds or any disease or ailment shall be permitted to be in service on the streets of the city.
- (5) Each horse shall have its hooves properly trimmed and shod with rubber shoes for street surfaces.
- (6) Each horse shall be groomed daily and not have visible fungus, dandruff, or a dirty coat.
- (7) Harnesses shall be properly fitted, maintained, and oiled so that no irritating material will come in direct contact with the horse.

- (8) The police department shall check for compliance with the provisions of this division before a horse permit may be issued.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-408. Authority for removal of horse from streets; suspension or revocation of horse permit.

The police department shall have the authority to remove from operation on the streets of the city any horse used to pull a horse-drawn carriage which is in violation of this division and to suspend or revoke the horse permit until all deficiencies have been corrected. The notice to revoke or suspend the horse permit shall be in writing to the business owner or permittee, if different than the business owner. An order of the police department to revoke the horse permit may be appealed to the administrative hearing officer as provided in subsection 22-404(d) of this division.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-409. Operating regulations.

(a) No single animal shall pull a carriage holding more than six passengers or seven passengers with child in arms, excluding the driver.

(b) No driver may use more than a light touch with any device upon any animal, and no driver or other person may forcefully strike an animal or make movements or noise intended to frighten or harm an animal.

(c) No driver shall permit an animal to pull a carriage at a speed faster than a slow trot, except in emergency situations.

(d) No horse shall be subject to any condition or treatment, whether in service or out of service, which will impair the good health and physical condition of that animal. Horses shall be cared for in ways that minimize fear, pain, stress and suffering.

(e) All drivers shall have their driver's license on their person at all times.

(f) All drivers shall wear a nametag or identification badge indicating their name and company name at all times.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-410. Authority to suspend an operation.

Any employee of a horse-drawn carriage business, when performing the duties of their position or when in control of the operation, shall suspend (stop) the operation when its continuation is not consistent with this division or safety standards, operating procedures, emergency procedures of the operation, or if in their opinion, its continuation presents a hazard to customers, employees or horses. The employee who, while in control of an operation, suspends or stops the operation shall make the notification to all appropriate parties, including emergency personal if needed. The operation will be resumed only upon approval by the appropriate authorities. This procedure shall be included in the emergency manual for the business operation.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-411. Care of horses.

The operator of the horse-drawn carriage shall provide proper care for their horses. The city shall be empowered to inspect all stables, stalls, trailers and operating facilities of any carriage company without notice.

- (1) Adequate water shall be provided in stables, stalls and carriage stands at all times while any horse is present.
- (2) Ventilation adequate to ensure the health and comfort of animals shall be provided in stable and stall areas.
- (3) Bedding in stalls and stables shall be kept at least six inches deep and shall not show wetness under the pressure of any horse's hooves.
- (4) Adequate and leak-free roofing is required for any stable or stall area in which animals are housed.
- (5) Each individual horse shall have a stall large enough for the animal to safely turn around, but in no case shall any

individual animal be kept in a stall less than 120 square feet in area. Ceilings in stalls and stables must be at least nine feet from the bedding and flooring.

- (6) Food shall be kept free of contamination, such as feces, mold, mildew and insects.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-412. Insurance.

(a) *Indemnity for benefit of city.* Any horse-drawn carriage company operating under this division shall hold the city, its officers, agents, servants and employees harmless against any and all liability, loss, damages or expense which may accrue to the city by reason of negligence, default or misconduct of the company in connection with the rights granted to such company hereunder. Nothing in this division shall be considered to make the city, its officers, agents, servants or employees liable for damages because of any negligent act or omission or commission by any horse-drawn carriage company, its servants, agents, drivers or other employees, during the operation by the company of a horse-drawn carriage business or service, either in respect to injury to persons or with respect to damage to property which may be sustained.

(b) *Insurance for benefit of passengers.* Any horse-drawn carriage company desiring a license to do business shall give and maintain a policy of indemnity from an insurance company authorized to do business in the state for each vehicle in use as a horse-drawn carriage. The minimum coverage shall be in accordance with section 2-287 insurance requirements as listed in subsections 2-287(1), (2) and (3). The indemnity insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property caused by the negligence of a horse-drawn carriage company, its servants or agents.

(c) *Blanket policy.* Any company or person operating a horse-drawn carriage in the city shall give a separate policy of indemnity insurance for each separate horse-drawn carriage for hire, except where such company or person actually owns or holds legal title to more than one horse-drawn carriage, in which event such company or person may give one policy of

indemnity insurance covering all the horse-drawn carriages actually owned. This latter provision, however, shall not apply to any group of persons separately owning horse-drawn carriages who may be jointly operating or doing business under a licensed horse-drawn carriage name.

(d) *Notice when voided.* Before any policy of insurance required by this division is voided for any cause, nonpayment of premium or otherwise, notice thereof shall be given, in writing, to the finance director at least five days before the same shall take effect.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-413. Stands generally; exclusive use carriage stands.

(a) Each horse-drawn carriage business shall be operated from an established carriage stand(s) and the location of such stand shall be indicated on the business license.

(b) *Exclusive use carriage stand.* The board may establish an exclusive use carriage stand. The stand will be established by the board by distinctively indicating the stand's location on the city's horse-drawn carriage route map. The use of the stand shall be determined by application to the finance department for the "exclusive use carriage stand" and shall be determined on a first-come first-served basis. As long as the applicant maintains a valid business license, they may maintain the use of the exclusive use carriage stand for a maximum of five consecutive years.

- (1) The first application for the exclusive use carriage stand received by the finance department shall have 60 days from application for the stand and business license to secure a business license. If a business license is not issued to the business within 60 days then the exclusive use carriage stand will become available to the next applicant.
- (2) Any business granted use of the exclusive use carriage stand which remains dormant for more than 60 days shall forfeit the use of the stand between the months of April and December.

- (3) Only permitted carriages shall be allowed to use the carriage stand. No other vehicles will be allowed to use the stand.
- (4) The city engineer shall mark the exclusive use carriage stand area as designated by the board.
- (5) No horse-drawn carriage shall be left overnight at the carriage stand.
- (6) No repair on carriages shall be allowed in the carriage stand area.

(c) Drivers of horse-drawn carriages operated under this division shall maintain stands in a sanitary condition at all times. Any failure on the part of the driver or drivers to conform to the requirements of this division shall be unlawful and shall subject the driver to the penalties provided herein.

(d) Passengers shall only be loaded and unloaded at horse-drawn carriage stands.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-414. Rates of fare.

No owner or driver of a horse-drawn carriage shall charge a greater sum for the use of the horse-drawn carriage than in accordance with the published and advertised rates which shall be displayed in each carriage. Rates shall be displayed in such place as to be conspicuous and to be in clear view of all passengers.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-415. Driver not to leave vehicle while waiting to be hired.

It shall be unlawful for any driver of any horse-drawn carriage to leave the vehicle, or the immediate premises thereof, while the vehicle is parked in a horse-drawn carriage stand while waiting to be hired.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-416. Restriction on number of passengers.

No driver shall permit more persons to be carried in a horse-drawn carriage as passengers

than the rated seating capacity of his horse-drawn carriage. A child in arms shall not be counted as a passenger.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-417. Refusal to carry orderly passengers prohibited.

No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this division to do so.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-418. Horse-drawn carriage movement prohibited under certain circumstances.

No driver shall collect fares, make change, or take on or discharge passengers while his horse-drawn carriage is in motion.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-419. Hours of operation; weather.

No horse-drawn carriage shall be operated on city streets between the hours of 12:00 midnight and 8:30 a.m. on any day. No horse-drawn carriage shall be operated if roads are not open for normal traffic. Horse-drawn carriages shall not be driven during adverse weather conditions, which shall include, but not be restricted to, snow, ice, heavy rain, lightning or slippery conditions and temperatures below 20 degrees or above 95 degrees.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-420. Designated route map.

Except when approved as a special event, the board shall designate a horse-drawn carriage route(s) to be used by all horse-drawn carriages licensed in the city. The route(s) shall only be located in the Downtown District, as defined by the official zoning map. The route(s) shall be designated in writing and by a map, which may include a designation for exclusive use carriage stand. The route(s) shall be designated by passage of a resolution by the board.

(Ord. No. 2016-0053, § 2, 5-24-2016; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 22-421. Sanitation requirements.

Manure and urine must be immediately treated with a chemical deodorizing solution, and manure must be removed immediately from the street by the carriage operator. Horse diapers, which prevent excrement from being deposited on the street surface, shall be used. All diapers must be maintained and free of defects.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-422. Obey traffic laws; stopping in streets; use of non-designated areas.

(a) Horse-drawn carriages shall obey all ordinances, statutes and traffic laws.

(b) Horse-drawn carriage operators shall not park carriages in city parking lots, city bus parking areas or any other public parking areas, including trolley stops not designated for a horse-drawn carriage stand.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-423. Horse-drawn carriage loading and spacing.

When the carriages leave the carriage stand they shall start out three minutes apart and after leaving the stand the carriages shall remain separated by a distance of not less than 500 feet. They shall not stop to load or unload until they return to the originating stand.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-424. Signage on carriage.

No advertising signage is allowed other than what is allowed on the carriage as required by this division.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-425. Smoking prohibited.

Smoking within six feet of carriage stands or horse-drawn carriages is prohibited.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Sec. 22-426. Expenses incurred.

Any expenses incurred by the city for removal from excrement, horses or carriages shall be charged to the business owner.

(Ord. No. 2016-0053, § 2, 5-24-2016)

Secs. 22-427—22-450. Reserved.

Chapters 23—25

RESERVED

Chapter 26

CEMETERIES*

Article I. In General

Secs. 26-1—26-18. Reserved.

Article II. City Cemetery

- | | |
|-------------|--|
| Sec. 26-19. | Boundaries; inactive status. |
| Sec. 26-20. | Permission for burials; burial fee. |
| Sec. 26-21. | Alteration or removal of trees, shrubs, buildings or fences. |
| Sec. 26-22. | Trespassing. |
| Sec. 26-23. | Grave liners. |
| Sec. 26-24. | Headstones. |
| Sec. 26-25. | Grave opening. |

***State law references**—Cemeteries generally, RSMo 214.010 et seq.; authority of local governments to acquire, dispose of and regulate cemeteries, RSMo 214.010; cemeteries to be maintained according to local ordinance regulations, RSMo 214.390.

ARTICLE I. IN GENERAL

Secs. 26-1—26-18. Reserved.

ARTICLE II. CITY CEMETERY

Sec. 26-19. Boundaries; inactive status.

(a) The Branson Cemetery (referred to as the "city cemetery") located in the city, is described as follows:

Beginning at the SE corner of NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, Township 23, Range 21, thence west 150 feet, thence north 300 feet, thence east 150 feet, thence south 300 feet to place of beginning; also beginning at SW corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ or Corner No. 17, Section 33, Township 23, Range 21, run east 98 feet to the west right-of-way of Old 65 Highway; thence north 20 degrees east following highway 141 feet; thence north 9 degrees east 177 feet to Missouri Pacific Railroad right-of-way; thence west 188 feet to a point due north of Corner No. 17 and thence south 305 feet to the point of beginning, lying in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and contains one acre more or less.

(b) The city cemetery is inactive, meaning it is no longer used for interments except for a limited number of previously reserved gravesites.

(Code 1988, § 140.010; Code 1996, § 145.010; Code 2005, § 30-31; Ord. No. 282, § 1, 6-10-1957)

Sec. 26-20. Permission for burials; burial fee.

No burials shall be made in the city cemetery unless permission is granted by and a fee is directed to the city. The entry fee for burial will be in the amount provided in the city fee schedule, which fee shall be placed in a perpetual care fund. (Code 1988, § 140.020; Code 1996, § 145.020; Code 2005, § 30-32; Ord. No. 657, § 1, 8-13-1984)

Sec. 26-21. Alteration or removal of trees, shrubs, buildings or fences.

No trees, shrubs, buildings, or fences located upon the city cemetery shall be altered, changed, injured or removed unless permission is obtained from the city.

(Code 1988, § 140.030; Code 1996, § 145.030; Code 2005, § 30-33; Ord. No. 282, § 3, 6-10-1957)

Sec. 26-22. Trespassing.

No person shall trespass upon the city cemetery, and the city shall have the power and authority to regulate the admission of visitors to and upon the cemetery grounds.

(Code 1988, § 140.040; Code 1996, § 145.040; Code 2005, § 30-34; Ord. No. 282, § 4, 6-10-1957)

Sec. 26-23. Grave liners.

The minimum grave liner that will be accepted in the city cemetery is a concrete box. Wood boxes are not accepted.

(Code 1988, § 140.060; Code 1996, § 145.060; Code 2005, § 30-35; Ord. No. 657, § 2, 8-13-1984)

Sec. 26-24. Headstones.

The next of kin securing permission for burial in the city cemetery must sign a statement agreeing to furnish a headstone to adequately mark the grave within 365 days of burial and pay a deposit in the amount provided in the city fee schedule to be refunded upon placement of the headstone by the next of kin or used for placement of a headstone by the city after the 365 days. Failure to place the headstone within the prescribed time will result in the forfeiture of the deposit.

(Code 1988, § 140.070; Code 1996, § 145.070; Code 2005, § 30-36; Ord. No. 657, § 2, 8-13-1984)

Sec. 26-25. Grave opening.

The city shall secure a person of its choice to open and close the grave space. The requesting party shall pay the fee to the grave opener.

(Code 1988, § 140.080; Code 1996, § 145.080; Code 2005, § 30-37; Ord. No. 657, § 2, 8-13-1984)

Chapters 27—29

RESERVED

Chapter 30

COURTS AND JAILS*

Article I. In General

Secs. 30-1—30-18. Reserved.

Article II. Municipal Court

Division 1. Generally

- Sec. 30-19. Jurisdiction.
- Sec. 30-20. General meeting rules.
- Sec. 30-21. Prosecutions to be based on information or verified complaint; proceedings.
- Sec. 30-22. Issuance and execution of warrants.
- Sec. 30-23. Arrests without warrant.
- Sec. 30-24. City attorney to prosecute violations.
- Sec. 30-25. Right to trial by jury.
- Sec. 30-26. Judge to be trier of fact.
- Sec. 30-27. Summoning of witnesses.
- Sec. 30-28. Fees for judge, city attorney, and prosecutor.
- Sec. 30-29. Conduct of court.
- Sec. 30-30. Sentencing generally; parole or probation.
- Sec. 30-31. Court costs.
- Sec. 30-32. Administrative search warrant.
- Secs. 30-33—30-54. Reserved.

Division 2. Judge

- Sec. 30-55. Appointment and removal; term; compensation.
- Sec. 30-56. Procedure when judge is absent.
- Sec. 30-57. Qualifications.
- Sec. 30-58. Powers and duties.
- Sec. 30-59. Standards of conduct.
- Secs. 30-60—30-76. Reserved.

Division 3. Violations Bureau

- Sec. 30-77. Established.
- Sec. 30-78. Payment of fine or deposit of bail.
- Sec. 30-79. Duties generally.
- Sec. 30-80. Records.
- Sec. 30-81. Procedures.
- Secs. 30-82—30-89. Reserved.

***State law references**—Courts generally, RSMo 476.001 et seq.; municipal courts and traffic courts generally, RSMo 179.010 et seq.; courts and attorney in municipalities generally, RSMo 98.030 et seq.; municipal and traffic courts, 479.010 et seq.; authority of special charter cities to establish municipal court and appoint municipal judge, RSMo 479.020; clerks of court, RSMo 483.010; court costs generally, RSMo 488.005 et seq.; court costs in certain cities, RSMo 488.2205 et seq.; evidence and legal advertisements, RSMo 490.010 et seq.; civil procedure and limitations, RSMo 506.010 et seq.; criminal procedure, RSMo 540.021 et seq.; erection and maintenance of city courthouses and jails, RSMo 71.300; establishment and maintenance of city jail in special charter cities with populations of less than 10,000, RSMo 81.090.

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Article III. Administrative Hearings and Appeals

Division 1. Generally

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| Sec. 30-90. | Definitions. |
| Sec. 30-91. | General application. |
| Sec. 30-92. | Administrative hearing officer—Powers and duties. |
| Sec. 30-93. | Delivery of hearing notice. |
| Sec. 30-94. | Administrative hearings. |
| Sec. 30-95. | Burden of proof. |
| Sec. 30-96. | Final determination. |
| Sec. 30-97. | Appeal of final determination. |

ARTICLE I. IN GENERAL

Secs. 30-1—30-18. Reserved.

ARTICLE II. MUNICIPAL COURT

DIVISION 1. GENERALLY

Sec. 30-19. Jurisdiction.

The jurisdiction of the municipal court shall extend to all cases involving alleged violations of the ordinances of the city.

(Code 1988, § 120.020; Code 1996, § 120.030; Code 2005, § 34-31)

State law reference—Similar provisions, RSMo 479.010.

Sec. 30-20. General meeting rules.

The municipal court shall meet in the courtroom provided for such purpose, in public session, and during the daylight hours of the week, under such rules as may be required by the city judge or state law.

(Code 1988, § 120.040; Code 1996, § 120.050; Code 2005, § 34-32; Ord. No. 496, § 2, 7-11-1977)

Sec. 30-21. Prosecutions to be based on information or verified complaint; proceedings.

All prosecutions for the violations of municipal ordinances shall be instituted by information and may be based upon either the prosecutor's own knowledge or information and belief, or upon a verified complaint. Proceedings shall be in accordance with the Supreme Court rules governing practice and procedure before municipal judges. (Code 1996, § 120.070; Code 2005, § 34-33; Ord. No. 99-959, § 2, 10-11-1999)

State law reference—Similar provisions, RSMo 479.090.

Sec. 30-22. Issuance and execution of warrants.

All warrants issued by the municipal judge, or an associate circuit judge hearing violations of municipal ordinances, shall be directed to the city marshal, police chief, or any other police officer of the city, or to the sheriff of the county. The warrants shall be executed by the marshal, police

chief, police officer or sheriff at any place within the limits of the county, and not elsewhere, unless the warrants are endorsed in the manner provided for warrants in criminal cases, and when so endorsed, warrants shall be served in other counties, as provided for in warrants in criminal cases. (Code 1996, § 120.080; Code 2005, § 34-34)

State law reference—Similar provisions, RSMo 479.100.

Sec. 30-23. Arrests without warrant.

The city marshal, police chief, or other police officer of the city may, without a warrant, make arrests of any person who commits an offense in his presence, but such officer shall, before the trial, file a written complaint with the judge hearing violations of municipal ordinances. (Code 1996, § 120.090; Code 2005, § 34-35)

State law reference—Similar provisions, RSMo 479.110.

Sec. 30-24. City attorney to prosecute violations.

It shall be the duty of the city attorney to prosecute the violations of the city's ordinances before the municipal judge or before the associate circuit judge hearing the violations of the city's ordinances. The salary or fees of the attorney and his necessary expenses incurred in such prosecutions shall be paid by the city.

(Code 1996, § 120.100; Code 2005, § 34-36)

State law reference—Similar provisions, RSMo 479.120.

Sec. 30-25. Right to trial by jury.

Any person charged with the violation of a municipal ordinance of this city shall be entitled to a trial by jury as in prosecutions for misdemeanors before the associate circuit judge. (Code 1996, § 120.110; Code 2005, § 34-37)

State law reference—Similar provisions, RSMo 479.130.

Sec. 30-26. Judge to be trier of fact.

In any trial for the violation of a municipal ordinance, all issues of fact shall be tried by the judge except where trial by jury is authorized by law and the defendant or his attorney requests a trial by jury.

(Code 1996, § 120.120; Code 2005, § 34-38)

State law reference—Similar provisions, RSMo 479.140.

Sec. 30-27. Summoning of witnesses.

(a) It shall be the duty of the municipal judge to summon all persons whose testimony may be deemed essential as witnesses at the trial and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and shall be taxed as other costs in the case.

(b) When a trial is continued by the municipal judge it shall not be necessary to summon any witnesses who may be present at the continuance; but the municipal judge shall orally notify such witnesses as either party may require to attend before him on the day set for trial to testify in the case, and enter the names of such witnesses on his docket, which oral notice shall be valid as a summons.

(Code 1996, § 120.130; Code 2005, § 34-39)

State law reference—Similar provisions, RSMo 479.160.

Sec. 30-28. Fees for judge, city attorney, and prosecutor.

No fees for a judge, city attorney, or prosecutor shall be assessed as costs in the municipal court.

(Code 1996, § 120.140; Code 2005, § 34-40)

State law reference—Similar provisions, RSMo 479.260.

Sec. 30-29. Conduct of court.

All information and complaints, arraignments and matters before trial in the municipal court, all traffic violation proceedings thereupon, all trials in the municipal court, verdicts, judgments, sentences, procedures governing new trials and appeals, the requirements of the presence of defendants and the right to counsel, and requirements concerning disqualification of the judge, bail and surety of persons arrested shall be governed by the mandatory provisions of the state rules of court, Supreme Court rules, or the laws and statutes made and provided, and at all times the municipal judge shall have in his court a copy of the rules of court, kept current and up to date, and a copy of the appropriate statutes governing the conduct of municipal courts of cities of a like class in the state.

(Code 1996, § 120.150; Code 2005, § 34-41)

Sec. 30-30. Sentencing generally; parole or probation.

(a) Any judge hearing violations of municipal ordinances may, when in his judgment it may seem advisable, grant a parole or probation to any person who shall plead guilty or who shall be convicted after a trial before such judge. When a person is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released.

(b) In addition to such other authority as exists to order conditions of probation, the court may order conditions which the court believes will serve to compensate the victim of the crime, any dependent of the victim, or society in general. Such conditions may include, but need not be limited to:

- (1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and
- (2) The performance of a designated amount of free work for a public or charitable purpose, as determined by the judge.

(c) A person may refuse probation conditioned on the performance of free work. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning provided by state law.

(d) The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

(e) Wherever any person has been found guilty of violating an ordinance of the city, the municipal court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

- (1) Sentence the person to a term of imprisonment as authorized by ordinance.

- (2) Sentence the person to pay a fine as authorized by ordinance.
- (3) Suspend the imposition of sentence, with or without placing the person on probation.
- (4) Pronounce sentence and suspend its execution, placing the person on probation.

(Code 1996, § 120.170; Code 2005, § 34-42)

Sec. 30-31. Court costs.

In all cases brought before the judge of the municipal court for violation of any of the ordinances of the city, the following may be assessed as provided in the city fee schedule:

- (1) Court cost.
- (2) Crime victim's compensation. A fee in the amount provided in the city fee schedule is hereby established and assessed as additional court costs in each court proceeding, except that no such surcharge shall be collected when the proceedings against the defendant have been dismissed.
- (3) Officer training surcharge. A surcharge in the amount provided in the city fee schedule is hereby established and assessed as additional court costs in each court proceeding, except that no such surcharge shall be collected when the proceedings against the defendant have been dismissed.
- (4) Court automation fee. A surcharge in the amount provided in the city fee schedule shall be assessed in every proceeding filed in the municipal division for violation of an ordinance. Such surcharge shall also be assessed in cases in which pleas of guilty are processed in the violations bureau. No such surcharge shall be collected when the proceeding or defendant has been dismissed by the court, when costs are waived or when costs are paid to the city. Such surcharge shall be collected by the municipal court and transmitted monthly to the Missouri Director of Revenue to the credit of the

Missouri Statewide Court Automation Fund as provided in RSMo 488.012.3(5) and RSMo 488.027.2.

- (5) Filing affidavit of appeal.
- (6) Domestic violence shelter surcharge. A surcharge in the amount provided in the city fee schedule per case for each criminal case filed is hereby established and assessed as additional court costs in each court proceeding, except that no such fee shall be collected when the proceedings against the defendant have been dismissed.
- (7) Inmate security fee. A fee in the amount provided in the city fee schedule is hereby established and assessed as additional court costs in each court proceeding, except that no such surcharge shall be collected when the proceedings against the defendant have been dismissed.

(Code 1988, § 120.070; Code 1996, § 120.180; Code 2005, § 34-43; Ord. No. 93-104, §§ 1—6, 9-30-1993; Ord. No. 94-118, §§ 1—8, 10-10-1994; Ord. No. 96-087, § A, 10-14-1996; Ord. No. 97-019, § 1, 6-23-1997; Ord. No. 99-1000, § 1, 12-6-1999; Ord. No. 2001-117, § 1, 9-10-2001; Ord. No. 2002-098, § 1, 8-26-2002; Ord. No. 2007-077, § 1, 8-27-2007; Ord. No. 2013-0105, § 1, 8-27-2013; Ord. No. 2015-0024, § 2(34-43), 2-24-2015; Ord. No. 2021-0044, § 2, 5-25-2021; Ord. No. 2021-0093, § 2, 8-10-2021)

Sec. 30-32. Administrative search warrant.

(a) *Scope and application of warrant.* Upon application to the municipal court, and a showing of probable cause, the court may approve the issuance of an administrative search warrant allowing inspection of private property in order to enforce the city's housing, zoning, building, health, safety, and fire codes in order to abate such conditions.

(b) *Application for warrant.*

- (1) Any individual responsible for enforcement of the city's regulatory code provisions concerning property may motion the court through the city attorney for

permission to enter said property in order to enforce the city's housing, zoning, health, safety, and fire codes, and to abate conditions that are in violation of such codes.

(2) The warrant application shall:

- a. Be in writing and filed with the municipal court.
- b. Include a statement of probable cause, detailing the actual or suspected property conditions that justify entry.
- c. Identify the property or place to be entered, searched, inspected, or seized so that it is of sufficient detail and particularity that the court and any officer executing the warrant could readily ascertain it. The request shall include that said property is within the city limits.
- d. Include the date and time that entry into said property was refused, and who was present when the refusal took place. If no responsible person could be located, the application must list all efforts made to request consent.
- e. State specifically what sections of the city's housing, zoning, building, health, safety, and fire codes are believed to be violated by the property in question and are sought to be enforced.
- f. Include copies of the code in question.
- g. State specifically the time and date requested to perform search; which shall be during daylight hours.
- h. Be verified by oath or affirmation of the applicant, and be signed by the applicant and the city attorney.
- i. State the time and date of making the application.
- j. State facts sufficient to show probable cause for the issuance of an

administrative search warrant in accordance with the procedure outlined in this section to warrant:

- 1. Search or inspection for violations of an ordinance or code section specified in the application.
- 2. Entry or seizure that is authorized and necessary to enforce code section specified in the application.
- k. Where the application requests entry to seize property, such application shall also state facts sufficient to show that any required due process has been afforded prior to the entry or seizure.
- l. Such application may also be supplemented by written affidavit.

(c) *Issuance of warrant; hearing and procedure.*

- (1) The municipal judge shall hold a non-adversary hearing to determine whether probable cause exists to inspect or search for violations of any housing, zoning, building, health, safety, and fire codes, or to enforce any such code.
- (2) In doing so, the municipal judge shall determine whether the action to be taken by the officer is reasonable in light of the facts stated. The municipal judge shall consider the goals of the ordinance or code section sought to be enforced and such other factors as may be appropriate, including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant ordinances or code sections and the passage of time since the property's last inspection. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of an ordinance or code section.
- (3) If it appears from the application and any supporting affidavit that there is probable

- cause to inspect or search for violations of any relevant code section, or to enforce any such code section, a search warrant shall immediately be issued.
- (4) The warrant shall issue in the form of an original and two copies. The application, any supporting affidavit, and one copy of the administrative search warrant, as issued, shall be retained in the municipal court records.
- (d) *Contents of warrant.* The warrant shall:
- (1) Be in writing and in the name of the city.
 - (2) Be directed to the police officer who will accompany and execute the warrant with the code official.
 - (3) State the time and date that the warrant was issued.
 - (4) Identify the location or property in sufficient detail and particularity that the officer executing the warrant can readily ascertain it.
 - (5) Command that the described property or places be searched or entered upon, and that any evidence of any city code violations found therein or thereon, or any property seized pursuant thereto, or a description of such property seized, be returned within ten days after filing of the application to the municipal judge who issued the warrant, or his municipal court clerk, so such evidence, property, or description of such property may be dealt with according to law.
 - (6) Include the code sought to be enforced along with a copy therewith. The warrant shall include a return and inventory form for the applicant to return to the court after the completion of the search.
 - (7) Specify the service conditions of the warrant, including that service to take place during daylight hours and within ten days of application.
 - (8) Be signed by the municipal judge, with his office title indicated.
- (e) *Execution and return.*
- (1) The warrant shall be executed by a city police officer, to be accompanied by the applicant officer, upon the property in question as soon as practicable and in the most reasonable and practicable manner possible.
 - (2) A copy of the warrant shall be provided to the owner or occupant of the property entered, and, if no owner or occupant can be reached, the warrant shall be conspicuously placed upon the property in lieu of personal service.
 - (3) If any property is seized incident to the entry, the officer shall prepare and give the person an itemized receipt for the property in question. If no such person is present, the receipt shall be left in a conspicuous place. Copies of this receipt shall be forwarded to the court clerk of the municipal court, as well as the city attorney.
 - (4) The disposition of property seized shall be in accordance with the provisions of this section and taken as evidence. Such property shall be disposed of pursuant to RSMo 542.301 and relevant provisions of this Code.
 - (5) The officer may summon as many persons as he deems necessary to assist in executing the warrant.
 - (6) The warrant shall expire if not acted upon within ten days of its application.
 - (7) After execution, a return signed by the officer executing the warrant shall be delivered to the municipal court and shall include the following:
 - a. The time and place of execution, including upon whom service was made.
 - b. A report of the search and any seizure accompanying the warrant. This shall include an itemized receipt of any items seized, and copies of any photographs or recordings made.

- c. The return shall be made immediately after the warrant execution.
- d. The court shall provide, upon written request made in person, a copy of the return to the owner of the property entered or seized.

(f) *Conflicts.* The provisions of this chapter shall prevail over any conflicts between it and any International Code Council regulations adopted by the city.

(Code 2005, § 34-45; Ord. No. 2011-007, § 1, 1-11-2011)

Secs. 30-33—30-54. Reserved.

DIVISION 2. JUDGE

Sec. 30-55. Appointment and removal; term; compensation.

The municipal judge shall be appointed or removed from office by the mayor with the consent and approval of a majority of the members of the board. The municipal judge shall be selected for a term of not less than two years. The municipal judge shall be compensated at such rate as may be designated by the board from time to time by ordinance.

(Code 1988, § 120.010; Code 1996, § 120.010; Code 2005, § 34-61; Ord. No. 454, § 1, 2-24-1975; Ord. No. 94-138, §§ 1, 2, 12-12-1994)

Sec. 30-56. Procedure when judge is absent.

(a) If a municipal judge is absent, sick or disqualified from acting, the mayor may request the presiding judge of the circuit court to designate a special municipal judge as provided in subsection (b) of this section or the mayor may designate some competent eligible person to act as municipal judge until such absence or disqualification shall cease.

(b) The presiding judge of the circuit court may appoint any other municipal judge within the circuit to act as a special municipal judge for a municipal judge of the circuit who is absent, sick or disqualified from acting. The presiding judge shall act only upon request of the mayor for a special municipal judge.

- (c) The board shall provide by ordinance for the compensation of any person designated to act as municipal judge under the provisions of this section.

(Code 1996, § 120.020; Code 2005, § 34-62)

Sec. 30-57. Qualifications.

(a) The municipal judge shall possess the following qualifications before he shall take office:

- (1) He must be a licensed member of the bar association of the state.
- (2) He need not reside within the city.
- (3) He must be a resident of the state.
- (4) He must be between the ages of 21 years and 75 years.
- (5) He may serve as municipal judge for any other municipality.
- (6) He may not hold any other office within the city government.

(b) The municipal judge shall be considered holding a part-time position, and as such may accept other employment to the extent consistent with state law and court rules.

(Code 1996, § 120.040; Code 2005, § 34-63; Ord. No. 2001-132, § 1, 10-8-2001)

Sec. 30-58. Powers and duties.

The municipal judge shall be a conservator of the peace. He shall keep a docket in which he shall enter every case commenced before him and the proceedings therein and he shall keep such other records as required. Such docket and records shall be records of the circuit court. The municipal judge shall deliver such docket and records and all books and papers pertaining to his office to his successor in office or the presiding judge of the circuit. The municipal judge shall have the power to administer oaths and enforce due obedience to all orders, rules and judgments made by him, and may fine or imprison for contempt committed before such judge while holding court, in the same manner and to the same

extent as a circuit judge. The municipal judge is given the authority to issue administrative search warrants as provided for in this chapter.

(Code 1996, § 120.060; Code 2005, § 34-64; Ord. No. 2011-007, § 1, 1-11-2011)

State law reference—Similar provisions, RSMo 479.070.

Sec. 30-59. Standards of conduct.

It shall be and is the obligation of the municipal judge to conduct his court and his professional, personal relationships in accordance with the same high standards and judicial ethics required of judges in state courts.

(Code 1988, § 120.050(P); Code 1996, § 120.160; Code 2005, § 34-65)

Secs. 30-60—30-76. Reserved.

DIVISION 3. VIOLATIONS BUREAU

Sec. 30-77. Established.

(a) The municipal judge shall establish a violations bureau to assist the court with the clerical work of any animal control violations, housing violations or traffic violations. The bureau shall be in charge of such person, and shall be open at such hours, as the municipal judge may designate.

(b) The judge of the municipal court who hears such cases shall designate by order the specified offenses under the ordinances of the city and the state laws in accordance with Supreme Court Rule No. 37.49 in respect to which payments of fines may be accepted by the violations bureau and in satisfaction thereof, and shall specify suitable schedules of the amount of fines for first, second and subsequent offenses, provided such fines are within the limits declared by the law or ordinance, and shall further specify what number of such offenses shall require appearance before the court.

(Code 1988, § 300.020; Code 1996, § 120.200; Code 2005, § 34-81; Ord. No. 393, § 9, 5-25-1970; Ord. No. 99-959, § 1, 10-11-1999)

State law reference—Similar provisions, RSMo 479.050.

Sec. 30-78. Payment of fine or deposit of bail.

(a) Any person charged with an offense for which payment of a fine may be made to the violations bureau shall have the option of paying such fine within the time specified in the notice of arrest at the 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.
(Code 1988, § 375.010; Code 1996, § 120.210; Code 2005, § 34-82; Ord. No. 393, § 1, 5-25-1970; Ord. No. 99-959, § 1, 10-11-1999)

Sec. 30-79. Duties generally.

The following duties are hereby imposed upon the violations bureau in reference to 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.

(Code 1988, § 375.020; Code 1996, § 120.220; Code 2005, § 34-83; Ord. No. 393, § 1, 5-25-1970; Ord. No. 99-959, § 1, 10-11-1999)

State law reference—Similar provisions, RSMo 300.560.

Sec. 30-80. Records.

The violations bureau shall keep records and submit to the judges hearing violations of municipal ordinances, summarized monthly reports of all notices issued and arrests made for violations of the traffic laws and ordinances in the city and of all the fines collected by the traffic

violations bureau or the court, and of the final disposition or present status of every case of violation of the provisions of such laws and ordinances. Such records shall be so maintained as to show all types of violations and the totals of each. Such records shall be public records.

(Code 1988, § 375.030; Code 1996, § 120.230; Code 2005, § 34-84; Ord. No. 393, § 1, 5-25-1970; Ord. No. 99-959, § 1, 10-11-1999)

State law reference—Similar provisions, RSMo 300.565.

Sec. 30-81. Procedures.

The violations bureau shall follow such procedure as may be prescribed by the ordinances of the city or as may be required by any laws of the state.

(Code 1988, § 375.040; Code 1996, § 120.240; Code 2005, § 34-85; Ord. No. 393, § 1, 5-25-1970; Ord. No. 99-959, § 1, 10-11-1999)

State law reference—Similar provisions, RSMo 300.570.

Secs. 30-82—30-89. Reserved.

ARTICLE III. ADMINISTRATIVE HEARINGS AND APPEALS

DIVISION 1 GENERALLY

Sec. 30-90. 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:]

Administrative hearing officer means the person or persons appointed by the city administrator pursuant to this chapter.

Affected department means the city department which employs the city officer who made the decision appealed from in an administrative appeal proceeding.

Appealable decision means a decision made by a city officer in the performance of the officer's official duties that is specifically allowed by this Code to be appealed to the administrative hearing officer in accordance with the procedures set forth in this chapter. A decision shall be considered

to have been made on the date it is memorialized in writing, provided such written decision is promptly served upon the affected parties by regular mail addressed to the place where the violation occurred.

Appellant means one or more persons who have filed an appeal under the provisions of this Code.

Days after or *days before* when used in the computation of the time between a triggering event and some required action shall be calculated by not counting the day of the triggering event and by counting each day before or after the triggering event, as appropriate until and including the date the required action is taken.

(Ord. No. 2017-0095, § 2, 9-12-2017)

Sec. 30-91. General application.

(a) Unless a specific procedure is otherwise provided for in an applicable chapter or section, the following procedures may be followed with regard to administrative enforcement where a hearing is required by the state law or ordinance. The hearing may be conducted as a contested or as a non-contested matter and the notice of hearing shall state the nature of the proceeding.

(b) The applicant shall pay the costs for the appeal hearing as determined in the city's fee schedule. Said costs shall cover the city's expenses for providing the hearing and shall be listed in the fee schedule found in appendix A.

(c) Applicant shall explain in writing the nature of the request and the decision being appealed.

(d) A contested case is generally governed by the applicable requirements of RSMo ch. 536 for procedural matters and by RSMo 536.100 through 536.140, for the appeals procedure. A non-contested case lacks the formal procedural requirements of a contested case and is subject to the appeal process outlined in RSMo 536.150.

(Ord. No. 2017-0095, § 2, 9-12-2017)

Sec. 30-92. Administrative hearing officer—Powers and duties.

(a) One or more administrative hearing officers shall be appointed by the city administrator and documented in a memorandum filed in the city clerk's office.

(b) An administrative hearing officer(s) shall have all powers necessary to conduct fair and impartial hearings including, but not limited to, the power to:

- (1) Conduct administrative hearings and issue decisions in conformance with this Code.
- (2) Administer oaths and affirmations.
- (3) Hear testimony.
- (4) Preserve and authenticate the record of the hearing, all exhibits and evidence introduced at the hearing.
- (5) Regulate the course of the hearing in accordance with this chapter and other applicable law.
- (6) Issue a final order which includes findings of fact and conclusions of law.
- (7) Direct the refunding of appeal fees.

(Ord. No. 2017-0095, § 2, 9-12-2017; Ord. No. 2023-0120, § 2, 10-10-2023)

Sec. 30-93. Delivery of hearing notice.

(a) Notice shall be satisfied by depositing in the United States mail, postage prepaid, the notice addressed to the interested party at their last known address as provided by the relevant department to the city clerk's office. Receipt of the mailed notice shall be calculated as three days after the date the notice was mailed;

(b) If there is no last known address for a party and service cannot be had by depositing in the United States mail, then service may be had by publication in a newspaper qualified to publish legal notices once a week for two consecutive weeks; or

(c) If notice involves property issues and such property is not occupied and the owner is unknown or cannot be located at their last known address the city may post the notice in a conspicuous location on the property where the violation exists.

(d) Any notice shall be in writing and contain the following information:

- (1) Identifying caption and number assigned to the proceeding by the city with a

statement as to whether the matter will proceed as a contested or non-contested matter.

- (2) A brief statement of the matter involved, describing why the notice is being issued.
- (3) A statement that the notice is the writing officially instituting the proceeding.
(Ord. No. 2017-0095, § 2, 9-12-2017)

Sec. 30-94. Administrative hearings.

(a) Any administrative hearing proceeding shall afford the appellant an opportunity for a hearing before an administrative hearing officer(s).

(b) An attorney or other representative who appears on behalf of any person shall file a written appearance with the city clerk's office before the date of the hearing to be placed in the hearing file.

(c) The administrative hearing officer(s) may grant continuances only upon a finding of good cause shown.

(d) All testimony shall be given under oath or affirmation.

(e) The appellant or the appellant's representative, and a representative of the affected department shall have the right to question any witness.

(f) If at the time set for hearing neither the appellant nor the appellant's representative of record appears, the administrative hearing officer(s) may find the appellant in default and proceed with the hearing, accept evidence relevant to the appeal, and conclude with a final determination.

(g) The formal and technical rules of evidence shall not apply in the conduct of the hearing, unless the matter is a contested case. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(h) The record of all hearings before an administrative hearing officer(s) shall include:
(i) a record of the testimony presented at the hearing, which may be made by tape recording, video recording, or other appropriate means; (ii) all documents presented at the hearing; (iii)

notice of violation; (iv) notice of hearing; (v) a copy of the decision appealed from; and (vi) a copy of the findings and decisions of the administrative hearing officer.

(Ord. No. 2017-0095, § 2, 9-12-2017)

Sec. 30-95. Burden of proof.

An appealable decision which has been memorialized in writing and signed by a city officer shall be *prima facie* evidence of the correctness of the facts specified therein. No appealable decision shall be reversed or amended except upon proof by a preponderance of the evidence that such decision is contrary to the law or this Code, or is unsupported by the facts.

(Ord. No. 2017-0095, § 2, 9-12-2017)

Sec. 30-96. Final determination.

(a) Upon conclusion of the hearing on an appeal brought pursuant to this article, the administrative hearing officer(s) shall issue a final determination affirming, amending and affirming, or reversing the appealed decision. The administrative hearing officer(s) shall have the authority to enter any order, determination or remedy that could have been entered by the city officer in the decision on appeal.

(b) If the appealed decision is reversed, the administrative hearing officer(s) may order the refunding of the appeal fee. If the appealed decision is amended and affirmed, the administrative hearing officer(s) may direct the refunding of a portion of the appeal fee proportionate to the appellant's success on the merits of the appeal.

(c) In the issuance of a final determination on any appeal, the administrative hearing officer shall inform the appellant of his rights to seek judicial review of the final decision by a certiorari action filed with the circuit court of the county.

(d) The final determination of the administrative hearing officer(s) shall be promptly served on the designated representative of the appellant, or on the appellant, if no representative has been designated as set forth.

(Ord. No. 2017-0095, § 2, 9-12-2017)

Sec. 30-97. Appeal of final determination.

(a) Any party aggrieved by a final determination made by an administrative hearing officer(s) pursuant to this article may challenge whether the administrative hearing officer(s) exceeded proper jurisdiction or otherwise acted illegally by commencing a certiorari action in the circuit court of the county. The petition to initiate a certiorari action must be filed within 30 days after the entry of the final determination.

(b) The filing of an action in the circuit court challenging the final determination of the administrative hearing officer(s) does not automatically stop the city from taking action pursuant to such final determination. Unless the city has been served with an order from the circuit court directing otherwise, the city may proceed with enforcement of a final determination.

(Ord. No. 2017-0095, § 2, 9-12-2017)

Chapters 31—33

RESERVED

Chapter 34

EMERGENCY MANAGEMENT AND SERVICES*

Article I. In General

- Sec. 34-1. Definitions.
- Secs. 34-2—34-18. Reserved.

Article II. Emergency Management Division

- Sec. 34-19. Purpose.
- Sec. 34-20. Emergency management division.
- Sec. 34-21. Mayor's duties, power and responsibilities.
- Sec. 34-22. Emergency management director.
- Sec. 34-23. General duties of the emergency management director.
- Sec. 34-24. Authority of the city administrator and emergency management director.
- Sec. 34-25. Emergency measures.
- Sec. 34-26. Exemption of liability.
- Sec. 34-27. Oath.
- Secs. 34-28—34-55. Reserved.

***Editor's note**—Ord. No. 2016-0050, § 2, adopted May 10, 2016, amended ch. 34 in its entirety to read as herein set out. Former ch. 34, §§ 34-19—34-24, pertained to similar subject matter, and derived from: Code 1988, §§ 265.010—265.080; Code 1996, §§ 240.010—240.080; Code 2005, §§ 38-91—38-97; Ord. No. 437, §§ 1—8, adopted Sept. 10, 1973; and Ord. No. 2001-018, § 1, adopted Feb. 26, 2001.

State law references—Emergency management, RSMo 44.010 et seq.; local governmental units required to establish emergency management organization, RSMo 44.080; local regulations to be filed with Secretary of State, RSMo 44.130; emergency services, 190.001 et seq.; confidentiality of 911 reports, RSMo 610.150; ambulance services and emergency personnel, RSMo 190.094 et seq.; health and welfare, RSMo 191.005; Emergency Mutual Aid Compact, RSMo 44.145.

ARTICLE I. IN GENERAL

Sec. 34-1. 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. For general definitions and rules of construction applicable throughout this Code see section 1-2.

Disaster is any situation that causes human suffering or creates human needs that the victims cannot alleviate without assistance; any situation which results in, or has the potential to result in a significant loss of life or property; any event or emergency incident that requires an extraordinary commitment of city resources or exceeds the ability of the city to effectively respond without assistance from the state or federal government.

Event is a planned, non-emergency activity, typical examples are parades, sporting events or large gatherings.

Incident is an occurrence or event, natural or human-caused, which requires an emergency response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, wildland and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Secs. 34-2—34-18. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT DIVISION

Sec. 34-19. Purpose.

This article is enacted to set out and clarify the authority of the city, its board, directors and city employees with regard to emergency and

disaster situations. It is intended to grant as broad a power as permitted by code, statutes and constitutional authority.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-20. Emergency management division.

(a) There shall be an emergency management division within the city's fire department.

(b) There will be an emergency management coordinator for the city who will be titled the emergency management director, and who shall be responsible for the day to day routine management of the emergency management division, as well as the management and coordination during an emergency.

(c) The emergency management division of the city's fire department shall be responsible for the performance of emergency management functions within the city limits and may conduct these functions outside of the city limits as may be required by statute.

(d) The board shall adopt an emergency operations plan (EOP) for the city.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-21. Mayor's duties, power and responsibilities.

Upon the actual occurrence of a disaster within the city, or upon a credible threat of an imminent disaster, when the safety and welfare of the inhabitants of the city are jeopardized, the mayor is hereby empowered to declare a state of emergency, to activate all of the rights, duties and responsibilities granted under the Missouri Civil Defense Act, and shall exercise these powers through the assistance and consultation with the emergency management director and the city administrator through a delegation of authority.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-22. Emergency management director.

The fire chief or acting fire chief shall serve as the emergency management director.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-23. General duties of the emergency management director.

(a) The emergency management director shall be responsible for the organization, administration and operation of local emergency management operations during natural or manmade disasters while working in direct communication and cooperation with the city administrator. All city employees, officials and agents shall cooperate fully with the emergency management director while carrying out their duties.

(b) The emergency management director may request the mayor to declare a state of emergency.

(c) The emergency management director shall complete an annual review of the emergency operations plan (EOP). The EOP shall be in compliance with state and federal requirements. City departments may be required to assist in the review and preparation of the EOP as determined necessary by the emergency management director.

(d) The emergency management director shall coordinate with city departments, other cities, counties, the state and federal government as may be necessary to plan and implement joint emergency planning and in the creation and maintenance of mutual aid agreements.

(e) The emergency management director may participate and coordinate preplanning for, or monitoring of public non-emergency events when such events may pose a threat to public safety due to the number of people participating, location of the event, notoriety of the event or other factors as determined necessary by the emergency management director or upon the direction of the city administrator.

(f) The emergency management director shall utilize the National Incident Management System (NIMS) and shall be responsible to provide the training and guidance necessary to achieve NIMS compliance across city departments.

(g) The emergency management director shall develop or participate in the development of exercises to test and validate the city's ability to respond to disasters. The director shall create after action reports as necessary, detailing areas

needing improvement after actual disasters or disaster exercises. These after action reports should include strategies to improve the city's response capabilities.

(h) The emergency management director shall issue public warnings when necessary to protect people and property.

(i) The emergency management director shall conduct and coordinate emergency management training for city personnel and public education programs as appropriate to improve the understanding of and the city's preparedness for, disasters or major emergencies.

(j) The emergency management director shall be responsible for maintaining records and accounting for the use and disposal of all items or equipment placed under the jurisdiction of the emergency management division.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-24. Authority of the city administrator and emergency management director.

Upon the occurrence or imminent threat of a disaster, enemy attack or after the declaration of a state of emergency, the city administrator and the emergency management director may, in accordance with the Missouri Civil Defense Act and the city's emergency operations plan, initiate the following actions:

- (1) Expend funds, make contracts, obtain and distribute equipment, materials and supplies for emergency management purposes; provide for the health and safety of persons, including emergency assistance to victims of an enemy attack and the safety of property; direct and coordinate the development of disaster plans and programs in accordance with the plans of the federal and state emergency management services; provided the emergency purchases code is followed.
- (2) May appoint, provide or remove rescue teams, auxiliary fire and police person-

nel and other emergency operations teams, units or personnel who may serve without compensation.

- (3) Accept services, materials, equipment, supplies or funds granted or loaned by the federal, state and local governments for emergency planning and operations purposes.
- (4) Obtain vital supplies, equipment and other properties found lacking for the protection of life and property of the people, and bind the city for the fair value; and if required, immediately commandeer such property for public use.
- (5) Require emergency services of any employees under his or the city administrator's control.
- (6) Requisition the necessary material of city departments.
- (7) Make studies and surveys of the industries, resources and facilities in the city, as may be necessary to ascertain the capabilities of the city for emergency management and to plan for the most efficient use.
- (8) Delegate duties as are authorized for the purpose of implementing and directing the emergency management program.
- (9) Implement and utilize other duties, authorities and powers provided by local, state and federal laws.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-25. Emergency measures.

(a) The city administrator or the emergency management director in order to protect life and property in the city and provide for the safety of the inhabitants is authorized to carry out curfews, evacuations, blackouts and enemy attack protection measures, at such times, and for such periods as may be authorized or ordered by the proper federal, state or local authorities. The city administrator and the emergency management director are authorized to promulgate orders, rules and regulations and establish signaling devices to ensure the protection of life and property. Any actions will be carried out in

consultation and cooperation with city, county, state and federal law enforcement officials. Such actions may be ratified by the board at a later date should the local, state or federal law require and if ratified shall be considered to have the same legal effect as if approved by the board at the time of the action.

(b) To facilitate the response to a disaster, emergency or event described in this article, the mayor may declare a state of emergency within the city and will delegate the use of the power and authority described in this article, in response to a disaster emergency, or event, to the emergency management director and city administrator in order to protect the peace, health and safety of the people, property, and the environment of the city. The declaration may be ratified by the board at a later date should local, state or federal law require and if ratified shall be considered to have the same legal effect as if approved by the board at the time of the action.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-26. Exemption of liability.

This article is an exercise by the city of its police powers or governmental function for the public peace, health and safety of the people and property, and the protection of the environment during emergency response periods in accordance with the city's emergency operations plan. Neither the city, the agents, nor representatives of the city, nor any other person in good faith carrying out, complying with, or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article, shall be liable for any damages sustained by any person or property as the result of such activity.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Sec. 34-27. Oath.

No person shall be employed by the city without taking the required employee oath as outlined in the Human Resources Manual.

(Ord. No. 2016-0050, § 2, 5-10-2016)

Secs. 34-28—34-55. Reserved.

Chapters 35—37

RESERVED

Chapter 38

ENVIRONMENT*

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Sec. 38-106. Conditions for approving variances for appurtenant structures.

***State law references**—Environmental control, RSMo 260.003 et seq.; municipal authority for abatement of public nuisances, RSMo 67.398; expenses of suppression of nuisances, how paid, RSMo 71.780; health and welfare, RSMo 191.005; Indoor Clean Air Act, RSMo 191.765 et seq.; Missouri Clean Water Law, RSMo 644.006 et seq.; lands, levees, drainage, sewers, and public water supply, RSMo 241.010 et seq.; conservation, resources, and development, RSMo 251.010 et seq.; water resources, 256.200 et seq.; water usage, RSMo 256.400 et seq.; soil conservation, RSMo 278.010 et seq.; watershed protection and flood prevention, RSMo 278.160 et seq.; municipal zoning and planning, RSMo 89.020 et seq.

ARTICLE I. IN GENERAL

Sec. 38-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

100-year flood. See *Base flood*.

Actuarial rates. See *Risk premium rates*.

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 federal insurance 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 principle structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Building. See *Structure*.

Chief executive officer or chief elected official means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development means any man-made 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, for insurance purposes, means a nonbasement 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 NFIP administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing construction, for the purposes of determining rates, means 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. 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 parcels 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 parcels 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; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map of a community on which the NFIP administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood elevation determination means a determination by the NFIP 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 NFIP 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 NFIP 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 means areas subject to flooding as identified by the current flood insurance rate map (FIRM) in accordance with this Code.

Floodway or regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to

compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. 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 preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this 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 parcels for rent or sale.

Map means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the federal emergency management agency.

Market value or fair market value means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean sea level, for purposes of the National Flood Insurance Program (NFIP), means 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, for the purposes of determining insurance rates, means 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, 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 parcel 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 administrator means the administrator of the national flood insurance program.

Participating community, also known as an "eligible community," means a community in which the NFIP administrator has authorized the sale of flood insurance.

Principally above ground means at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with federal, state, or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance.

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 NFIP 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 include provisions for operating costs and allowances.

Special flood hazard area. See *Area of special flood hazard.*

Special hazard area means an area having special flood hazards and shown on an FHB, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

Start of construction means and 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 of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of appurtenant structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means an agency of the state government, or other office, designated by the state governor or by state statute at the request of the NFIP administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in the state.

Structure.

- (1) The term "structure," for floodplain management purposes, means a walled and

roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

- (2) 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 of 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 "substantial damage" includes repetitive loss buildings (see definition).

For the purposes 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;
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure; or
- (3) Any improvement to a building.

Substantial improvement.

- (1) The term "substantial improvement" means any combination of reconstruction, alteration, or improvement to a building, taking place during the life of the building, 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. The term "substantial improvement" includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

- (2) The term "substantial improvement" does not apply to:
- a. 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;
 - b. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure; or
 - c. Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions means 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.

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.

(Code 2005, § 42-31; Ord. No. 2012-0032, § 1, 2-28-2012)

Secs. 38-2—38-20. Reserved.

ARTICLE II. FLOOD PREVENTION AND CONTROL

Sec. 38-21. Statutory authorization.

The state has in RSMo 89.020 et seq. delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety, and general welfare.

(Code 2005, § 42-2; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-22. 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 development in any delineated floodplain causing increases in flood heights and velocities; and
- (2) The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

(c) *Methods used to analyze flood hazards.* The flood insurance study (FIS) that is the basis of this chapter uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

- (1) Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this chapter is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this chapter. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the federal insurance administrator's FIS, and illustrative materials for the county, dated March 15, 2012, as amended, and any future revisions thereto.
- (2) Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- (3) Computation of a floodway required to convey this flood without increasing flood heights more than one foot at any point.
- (4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
- (5) Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

(Code 2005, § 42-3; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-23. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare; to minimize those losses described in this chapter; to establish or maintain the community's eligibility for participation in the National Flood Insurance

Program (NFIP) as defined in 44 CFR 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this chapter to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- (2) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- (3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Code 2005, § 42-4; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-24. Lands to which this chapter applies.

This 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) for the county on map panel numbers 29213C0135E, 29213C0141E, 29213C0142E, 29213C0143E, 29213C0144E, 29213C0150E, 29213C0155E, 29213C0161E, 29213C0162E, 29213C0163E, 29213C0164E, 29213C0256E, 29213C0257E, and 29213C0276E dated March 15, 2012 as amended, and any future revisions thereto. In all areas covered by this chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the board or its duly designated representative under such safeguards and restrictions as the board 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 this chapter.

(Code 2005, § 42-32; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-25. 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.

(Code 2005, § 42-34; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-26. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Code 2005, § 42-35; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-27. 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 governing body, and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Code 2005, § 42-36; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-28. 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 man-made 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.

(Code 2005, § 42-37; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-29. 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; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the newspaper. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the federal emergency management agency. The regulations of this chapter are in compliance with the National Flood Insurance Program (NFIP) regulations.

(Code 2005, § 42-121; Ord. No. 2012-0032, § 1, 2-28-2012)

Secs. 38-30—38-46. Reserved.

ARTICLE III. ADMINISTRATION

Sec. 38-47. Floodplain administrator.

The city administrator is hereby designated as the floodplain administrator.

(Code 2005, § 42-33; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-48. 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 this chapter. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

(Code 2005, § 42-51; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-49. 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 assure 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 to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal emergency management agency;
- (6) Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
- (7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- (8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved nonresidential structures have been floodproofed;
- (9) When floodproofing techniques are utilized for a particular non residential struc-

ture, the floodplain administrator shall require certification from a registered professional engineer or architect.

(Code 2005, § 42-52; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-50. 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 parcel, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
- (2) Identify and describe the work to be covered by the floodplain development permit;
- (3) Indicate the use or occupancy for which the proposed work is intended;
- (4) Indicate the assessed value of the structure and the fair market value of the improvement;
- (5) Specify whether development is located in 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 his authorized agent who may be required to submit evidence to indicate such authority.

(Code 2005, § 42-53; Ord. No. 2012-0032, § 1, 2-28-2012)

Secs. 38-51—38-73. Reserved.

ARTICLE IV. FLOOD HAZARD REDUCTION

Sec. 38-74. 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 numbered or unnumbered A 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 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 zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(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 flood waters into the systems and discharges from the systems into flood waters, and onsite 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 assure 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 parcels, 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) *Agricultural structures.* Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed, provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this chapter; and a floodplain development permit has been issued.

(g) *Appurtenant structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed, provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this chapter; and a floodplain development permit has been issued.

(h) *Nonconforming use.* A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance from which this article is derived, 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 to comply with existing state or local health, sanitary, building, safety codes, regulations or 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.

(i) *Cumulative improvement.* A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed 50 percent of the structure's current market value. If the cumulative value of the improvement exceeds 50 percent of the structure's current market value, the structure must be brought into compliance within this chapter which requires elevation of residential structures to or above the base flood elevation or the elevation/floodproofing of nonresidential structures to or above the base flood elevation.

(Code 2005, § 42-81; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-75. Specific standards.

In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data have been provided, as set forth in this chapter, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one foot above base flood elevation.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in this chapter.

- (3) *Enclosed areas below lowest floor:* For all new construction and substantial-improvements, 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 opening 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.
- (Code 2005, § 42-82; Ord. No. 2012-0032, § 1, 2-28-2012)
- (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 the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (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 this chapter, be elevated so that either:
- (1) The lowest floor of the manufactured home is at 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 be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Sec. 38-76. Manufactured homes.

(a) All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(b) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones, on the community's FIRM on sites:

- (1) Outside of manufactured home park or subdivision;

Sec. 38-77. Floodway.

Located within areas of special flood hazard established in this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

- (1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the

waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

- (2) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (3) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.
- (4) In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in this chapter.

(Code 2005, § 42-84; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-78. Recreational vehicles.

Recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the community's FIRM shall be required to:

- (1) Be on the site for fewer than 180 consecutive days;
- (2) Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this chapter; or
- (3) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Code 2005, § 42-85; Ord. No. 2012-0032, § 1, 2-28-2012)

Secs. 38-79—38-99. Reserved.

ARTICLE V. VARIANCE PROCEDURES

Sec. 38-100. Establishment of appeal board.

The board of adjustment as established by the city shall hear and decide appeals and requests for variances from the floodplain management requirements of this chapter.

(Code 2005, § 42-101; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-101. 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 board of adjustment, as defined in this chapter.

(b) The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(Code 2005, § 42-102; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-102. Further appeals.

Any person aggrieved by the decision of the board of adjustment may appeal such decision to the county circuit court as provided in RSMo 79.110.

(Code 2005, § 42-103; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-103. Floodplain management variance criteria.

In passing upon such applications for floodplain variances, the board of adjustment 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 flood waters, 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.

(Code 2005, § 42-104; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-104. Conditions for approving floodplain management variance.

(a) Generally, variances may be issued for new construction and substantial-improvements to be erected on a parcel of one-half acre or less in size contiguous to and surrounded by parcels with existing structures constructed below the base flood level, providing subsections (b)—(f) of this section have been fully considered. As the parcel

size increases beyond the 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 structures continued historic designation.

(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.

(Code 2005, § 42-105; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-105. Conditions for approving variances for agricultural structures.

(a) Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this chapter.

(b) In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

- (1) All agricultural structures considered for a variance from the floodplain management regulations of this chapter shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
- (2) Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's flood insurance rate map (FIRM).
- (3) For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with this chapter.
- (4) The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with this chapter. 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.

- (5) 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 this chapter.
- (6) The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with this chapter.
- (7) The agricultural structures must comply with the floodplain management floodway encroachment provisions of this chapter. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
- (8) Major equipment, machinery, or other contents must be protected from any flood damage.
- (9) No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the agricultural structures.
- (10) A community shall notify the applicant in writing over the signature of a community official that:
 - a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - b. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this chapter.

- (11) Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(Code 2005, § 42-106; Ord. No. 2012-0032, § 1, 2-28-2012)

Sec. 38-106. Conditions for approving variances for appurtenant structures.

(a) Any variance granted for an appurtenant structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set in this chapter.

(b) 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 appurtenant structures that are constructed at-grade and wet-floodproofed.

- (1) Use of the appurtenant structures must be solely for parking and limited storage purposes in zone A only as identified on the community's flood insurance rate map (FIRM).
- (2) For any new or substantially damaged appurtenant 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 this chapter.
- (3) The appurtenant structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with this chapter. 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 this chapter.
- (5) The appurtenant 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 this chapter.
- (6) The appurtenant structures must comply with the floodplain management floodway encroachment provisions of this chapter. No variances may be issued for appurtenant 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 any federal agency shall be paid for any repair or restoration costs of the appurtenant structures.
- (9) A community shall notify the applicant in writing over the signature of a community official that:
 - a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - b. Such construction below the base flood level increases risks to life and property.Such notification shall be maintained with the record of all variance actions as required by this chapter.
- (10) Wet-floodproofing construction techniques must be reviewed and approved by the

community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(Code 2005, § 42-107; Ord. No. 2012-0032, § 1, 2-28-2012)

Chapters 39—41

RESERVED

Chapter 42

FIRE PREVENTION AND PROTECTION*

Article I. In General

Secs. 42-1—42-18. Reserved.

Article II. Fire Department

Sec. 42-19. Authority at fires and other emergencies.
Sec. 42-20. Interference with operations.
Sec. 42-21. Boarding or tampering with emergency equipment.
Sec. 42-22. Damaging equipment or injuring personnel.
Sec. 42-23. Blocking fire hydrant or fire department connection.
Sec. 42-24. Hydrant use approval.
Sec. 42-25. Mutual aid.
Secs. 42-26—42-54. Reserved.

Article III. Fire Prevention Code

Sec. 42-55. International Fire Code adopted.
Sec. 42-56. Fireworks.

***State law references**—City police and fire departments generally, RSMo 85.005 et seq.; authority of city to purchase firefighting equipment, RSMo 77.190; fire protection generally, RSMo 320.010 et seq.; municipal fire protection generally, RSMo 71.370 et seq.; authority of municipalities to establish and enforce fire regulations, RSMo 320.250; firemen's retirement and relief systems, RSMo 87.005 et seq.; authority for ordinances requiring conspicuous posting of street addresses for fire protection and emergency services purposes, RSMo 67.318; fireworks regulation generally, RSMo 320.106 et seq.; fireworks regulation generally, RSMo 320.106 et seq.; Missouri Blasting Safety Act, RSMo 319.300 et seq.; blasting safety board, RSMo 319.324; municipal regulation of blasting, RSMo 319.342; authority of police and fire department officials with regard to traffic, RSMo 300.075; obedience to police and fire department officials required, RSMo 300.080.

ARTICLE I. IN GENERAL

Secs. 42-1—42-18. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 42-19. Authority at fires and other emergencies.

The fire chief, as may be in charge at the scene of a fire or other emergency involving the protection of life and property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or to take any other action necessary in the reasonable performance of their duty. The fire chief may prohibit any person, vehicle or object from approaching the scene and may remove, or cause to be removed, from the scene any person or vehicle or object which may impede or interfere with the operations of the fire department. The fire chief may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the fire chief. (Code 1988, § 205.010; Code 1996, § 230.010(A); Code 2005, § 38-31; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 42-20. Interference with operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of any fire department emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any fire department operation.

(Code 1988, § 205.010; Code 1996, § 230.010(B); Code 2005, § 38-32; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 42-21. Boarding or tampering with emergency equipment.

A person shall not, without proper authorization from the fire chief in charge of the fire department emergency equipment, cling to, attach himself to, climb upon or into, board, or

swing upon any fire department emergency vehicle, whether the vehicle is in motion or at rest, or sound the siren, horn, bell, or other sound-producing device thereon, or manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any fire department emergency vehicle.

(Code 1988, § 205.010; Code 1996, § 230.010(C); Code 2005, § 38-33; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 42-22. Damaging equipment or injuring personnel.

It shall be unlawful for any person to damage or deface or attempt or conspire to damage or deface any fire department emergency vehicle at any time, or to injure, or attempt to injure or conspire to injure fire department personnel while performing departmental duties.

(Code 1988, § 205.010; Code 1996, § 230.010(D); Code 2005, § 38-34; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 42-23. Blocking fire hydrant or fire department connection.

(a) It shall be unlawful to obscure from view, damage, deface, obstruct, or restrict the access to any fire hydrant or fire department connection for the pressurization of fire suspension systems, including fire hydrants and fire department connections that are located on public or private streets and access lanes, or in private property.

(b) If, upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments are not removed, the fire chief shall proceed to remove the obstructions or encroachments. Cost incurred in the performance of necessary work shall be paid from the municipal treasury on certificate of the fire chief and with the approval of the chief administrative official; and the legal authority of the city shall institute appropriate action for the recovery of such costs. (Code 1988, § 205.010; Code 1996, § 230.010(E); Code 2005, § 38-35; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 42-24. Hydrant use approval.

A person shall not use or operate any fire hydrant intended for use of the fire department for fire suppression purposes unless such person first secures a permit from the fire chief for such use, and from the utilities department. This section shall not apply to the use of such hydrant by a person employed by and authorized to make such use by the utilities department.

(Code 1988, § 205.010; Code 1996, § 230.010(F); Code 2005, § 38-36; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 42-25. Mutual aid.

(a) The Branson Fire Department hereby agrees with the following fire departments: Forsyth, and Springfield, and the fire department of the City of Harrison, Arkansas, the College of the Ozarks, and Western, Central Taney County, and Southern Stone County fire protection districts that, effective upon the passage and approval of a like ordinance by the appropriate governmental entity or by the appropriate nongovernmental entity agreeing to a like agreement for the interchange of service, such service shall be provided upon the conditions and provisions contained in this section.

(b) The fire departments of the entities mentioned in subsection (a) of this section shall respond to assist on fires and other related emergency situations, upon request by the fire chief of the Branson Fire Department, to any part of the city, and the city shall respond to like emergencies to the area served by the fire departments mentioned in this section, when the responses do not jeopardize protection of their own entities.

(c) This agreement shall take effect and be in force with the individual fire departments listed in subsection (a) of this section upon the passing of a similar ordinance or upon entering into a similar agreement with the city and the Branson Fire Department, and shall continue until terminated or amended by either party. The agreement shall be reviewed by the fire departments every five years.

(d) This agreement may be terminated at any time during its term upon the passage of an ordinance to that effect by the appropriate gov-

ernmental entity or by the withdrawal of any of the fire departments listed in subsection (a) of this section from the agreement, with written notice to the legislative body of any governmental entity or by notifying the appropriate representative of any nongovernmental entity with a certified copy of such ordinance terminating this agreement or a notice of intent to terminate such agreement.

(e) No compensation shall accrue or be paid by any party to this agreement for the emergency service of the fire department of any other party thereto.

(f) No entity mentioned in this section shall be liable to any other entity for any call by any such entity, or for the delay, negligence or mistake in receiving or responding to any call, nor shall this agreement be interpreted as being an agreement for the benefit of any third person.

(g) No party to this agreement shall be liable by reason of this agreement to any firefighter, official, or employee of the other, nor shall any firefighter, official or employee of any entity mentioned in this section be considered for any purpose a firefighter, official, or employee of any other entity other than the one by which he is regularly employed, unless he is employed by more than one entity, in which case he shall be considered an employee of the entity with which he shall, at the time in question, be serving.

(h) In case of loss or damage to apparatus, equipment or property of any party to this agreement while responding to any mutual aid incident, such loss or damage shall be borne by the entity owning such apparatus, equipment or property.

(i) This section shall remain in full force and effect only on the conditional basis that all city insurance on all fire vehicles shall remain in full force and effect on any action taken as a result of this agreement.

(Code 1988, § 205.020; Code 1996, § 230.020; Code 2005, § 38-37; Ord. No. 95-86, §§ 1—9, 8-14-1995)

Secs. 42-26—42-54. Reserved.

ARTICLE III. FIRE PREVENTION CODE

Sec. 42-55. International Fire Code adopted.

(a) *Adopted.* A certain document, one copy of which is on file in the office of the City Clerk of the City of Branson, being marked and designated as the International Fire Code, 2018, including Appendix Chapters A, B, C, D, E, F, G, H, I, J, K, L and N as published by the International Code Council, be and is hereby adopted as the fire code of the City of Branson in the State of Missouri, for the control of buildings, structures and premises as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Fire Code, are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in this article.

(b) *Amendments.* The code adopted is hereby adopted 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 to the code:

101.1. Insert: "City of Branson".

102.4.1.1 Where differences occur between the provisions of the International Fire Code including local amendments, the International Building Code and the Branson Municipal Code, the most restrictive code shall apply.

104.3.1.1 Search Warrant. A search warrant may be issued by the judge of the Municipal Court of the City of Branson, upon application by the fire code official, and upon a showing of probable cause to search for and seize, or photograph, copy, or record any evidence of a violation of this fire code.

104.12 Standby Fire Personnel/Fire Watch. The fire code official shall have the authority to require standby fire personnel or an approved fire watch when potentially hazardous conditions or a reduction in a life safety feature exist due to the type of performance, display,

exhibit, occupancy, contest or activity, an impairment to a fire protection system or structure, or the number of persons present.

104.12.1 The owner, agent, or lessee shall employ one or more qualified persons, as required and approved, to be on duty.

104.12.2 Reimbursement for fire suppression personnel shall be charged to the owner, agent, or lessee at the rate of one and one half times the hourly wage of personnel assigned to cover the standby or fire watch.

104.12.3 Such standby fire personnel or fire watch personnel shall be subject to the fire code official's orders at all times and shall be identifiable and remain on duty during the times such places are open to the public, when such activity is being conducted, or as required by the fire code official.

105.6.14.1 Permit Application. An operational permit is required for blasting. The permit application shall include:

1. The name, address, and telephone number(s) of the person(s) using explosives.
2. The name of the individual responsible for supervision of blasting.
3. The date or approximate period over which blasting will be conducted.
4. A site plan indicating; structures and public utilities within a scaled distance of thirty-five (35) from the blast site, an acceptable signage plan, bunker placement and scope of work (example: trenching, face walls, and surface).
5. Provide proof of Registration and Licensure with the Missouri Division of Fire Safety.
6. Copy of insurance with the City of Branson as a certificate holder and named as additional insured.
7. Documentation of Pre-Blast Surveys on identified properties.

8. Specific information about the type of explosives to be used including MSDS sheets for all products on the job site.

105.6.47 Temporary membrane structures and tents. An operational permit is required to operate an air-supported temporary membrane structure, a temporary stage canopy, canopy or a tent having an area in excess of 175 square feet.

Delete in its entirety the *Exceptions 2.1 and 2.2.*

105.7.25 Temporary membrane structures and tents. A construction permit is required to erect an air-supported temporary membrane structure, a temporary stage canopy, canopy or a tent having an area in excess of 175 square feet.

108.3 Recordkeeping. Delete in its entirety.

108.3 Recordkeeping. A record of periodic inspections, tests, servicing and other operations and maintenance shall be maintained on the premises or other approved location for not less than 3 years, or a different period of time where specified in this code or referenced standards. Records shall be made available for inspection by the fire code official, and a copy of the records shall be provided to the fire code official within 30 days of the inspection, test, service or maintenance taking place.

The fire code official is authorized to prescribe the form and format of such record-keeping. The fire code official is authorized to require that certain required records be filed with the fire code official.

108.3.1 Inspection, testing and maintenance recordkeeping. When required inspection, testing, servicing, or maintenance occurs on any new or existing fire protection systems, all documentation shall be submitted to the fire code official through the approved third-party inspection reporting system. Reporting parties shall pay any fees associated with that service to the city's third-party provider. Failure to submit applicable documentation utilizing

the approved third-party inspection reporting system is a violation of the provisions of this chapter.

[A] *110.4 Violation penalties.* Delete in its entirety.

[A] *110.4 Violation penalties.* See Chapter 1 of this Code.

[A] *112.4 Failure to comply.* Delete in its entirety.

[A] *112.4 Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fee in the amount provided in the city fee schedule.

SECTION 114 NOTICE OF HAZARDOUS CONDITION

114.1 Notice of Hazardous Condition. Whenever any person who has received notice of a violation of this fire code has failed to remove or remedy a hazardous condition within a reasonable time as specified by the notice of violation, the fire code official may cause a notice of hazardous condition to be posted upon the exterior face of every door providing ingress or egress from the building or structure, to notify the public of the nature of the un-remedied hazardous condition existing on the premises.

SECTION 202 GENERAL DEFINITIONS

UNCONTROLLED STRUCTURE. Any dwelling, public building, school, church, commercial building, or institutional building that is not owned or leased by the person using explosives, or otherwise under the direct contractual responsibility of the person using explosives.

SCALED DISTANCE. A value determined by dividing the linear distance, in feet, from the blast to a specified location, by the square root of the maximum weight of explosives, in pounds, to be detonated in any eight millisecond period.

307.1.2 Rubbish, waste and combustible materials. Open burning of Rubbish, waste consisting of combustible materials including, but not limited to; paper, cartons, rags, trash, and like substances shall be prohibited. Burning of materials that produce heavy, dark acrid smoke such as; plastics, foam, Styrofoam and similar petroleum based materials shall also be prohibited.

307.1.3 Hazardous and toxic waste. Open burning of hazardous and toxic waste shall be prohibited.

307.6 Open Burning - No Permit Required: Burning of leaves, twigs and branches two inches or less in diameter will be allowed under the following conditions:

1. The location for open burning shall be not less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of a structure.
2. The pile shall not exceed 125 cubic feet (five feet by five feet by five feet) in size.
3. No burning will be allowed when winds are in excess of 15 miles per hour.
4. Burning shall take place only between the hours of sunrise and sunset unless otherwise approved by the fire code official.
5. No burning will be allowed on any city street, road or alley.
6. Open burning shall be constantly attended (by a responsible party over the age of 18) until completely extinguished.
7. The responsible party supervising the open burning shall contact the 9-1-1 Emergency Communications Center to notify them of the address of the burn, contact phone number, and estimated burn time period.

307.7 Open Burning - Permit Required. A special permit for burning of trees, brush, clearing waste, and untreated sawn wood is

required when it can be shown that burning is the only possible feasible method of disposal and when permitted by the fire code official.

Permit conditions and requirements:

1. All permits shall be requested by and issued to the person(s) in legal control of the parcel of land on which burning is to be done. An Open Burning Permit will not be approved until a Land Disturbance Permit is approved and issued, when applicable.
2. Location of burn pile shall be at least 600 feet from any occupied building or structure.

Exception:

- a. The fire code official may reduce the distance when an Air Curtain Destructor is used adjacent to an approved burn pit and or berm.
- b. Written permission from the owner of an adjacent occupied structure.
3. An area of at least 100 feet surrounding the burn pile shall be clear of any combustible matter.
4. All burning shall take place only between the hours of sunrise and sunset unless otherwise approved by the fire code official.
5. No burning will be allowed when winds are in excess of 15 miles per hour.
6. Manned fire control/extinguishment shall be on scene and immediately available.
7. Fires shall be attended by a person over the age of 18 until fire is completely extinguished.
8. The responsible party supervising the open burning shall contact the 9-1-1 Emergency Communications Center to notify them of the address of the burn, contact phone number, and estimated burn time period.

311.2.2 Fire Protection.**Exceptions:**

4. A written plan from the property owner to the Fire Code Official shall be submitted prior to the termination of fire protection features stating the date the fire protection features will be re-activated. Submission of the letter does not guarantee approval to terminate ALL fire protection features at the property.

319.4.3 A minimum 2A10BC five pound fire extinguishers shall be added to all permanent and temporary Mobile Food Preparation Vehicles.

320.0 Parade Floats:

320.1 Decorative Material. Decorative material on parade floats shall be noncombustible or flame retardant.

320.2 Fire Protection. Parade floats and towing apparatus shall be provided with a minimum 5 pound 2-A: 10-B:C rated portable fire extinguisher readily accessible to the operator.

320.3 Float Safety. Tow chains from a trailer/float shall be secured to the tow vehicle. Driver visibility shall not be impaired and a Spotter shall be provided for each trailer/float being towed or manually driven.

SECTION 408 ATTRACTIOnS

408.1 General. The provisions of Sections 407.2 through 408.4 shall be applicable to Amusement Rides regulated by the Missouri Amusement Ride Safety Act as referenced in RSMO Title 11 - Department of Public Safety. Division 40 - Division of Fire Safety. Chapter 6 - Amusement Rides

408.2 Operational Permit. Amusement Ride Attractions shall maintain a current operation permit from the Missouri Division of Fire Safety, Office of the State Fire Marshal.

408.3 Reporting of Injuries/Death. When a serious physical injury or serious incident occurs as a result of an amusement ride, the

fire department shall be contacted to initiate an investigation and if warranted contact the Division of Fire Safety, Office of the State Fire Marshal.

408.4 Temporary and immediate cessation of operations of any amusement ride. The Fire Chief or his designate may verbally or in writing as soon as practical a temporary and immediate cessation of operation of any amusement ride if a hazardous condition or unsafe operation is suspected. The Fire Chief or his designate shall make contact with the Division of Fire Safety, Office of the State Fire Marshal to initiate an investigation and further direction.

505.1.1 Address number size shall be increased by a minimum of two inches for each 50 feet the building is set back from the street, highway or road.

506.3 To insure compatibility with the city's present key box system, the manufacturer shall be the Knox Company.

507.1.2 Private Fire Service Mains. The top of the pipe shall be buried a minimum of 42 inches below the finish grade. Tracer wire shall be affixed to the pipe from the water main connection and end at the fire sprinkler riser

507.5.1 Where Required.

Delete Exception 2 and Add New Exception 2: For Buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 150 feet from the Fire Department Connection.

901.6.4 Certification. Persons performing required fire protection testing and maintenance shall have a certification from an approved agency, one that is recognized by national industry standards. The National Institute for Certification in Engineering Technologies (NICET) certification will be considered the industry standard; however, other certifying organizations may be considered on a case by case basis by the fire chief.

901.6.4.1 Required Tags. Upon Completion of the inspection if the system is found to be fully functional and meets the requirements of the standard(s) in effect at the time of the installation, the inspector shall affix a GREEN tag to the system that includes the inspector and Inspection Company's name and the date of the inspection. If the system is found to be deficient by the standard(s) in effect at the time of installation, or the system is in need of repair but the system is still functional then the inspector shall affix a YELLOW tag to the system that includes the inspector and the inspection company's name and a list of the needed repairs.

901.6.4.2 Notifications. If upon the completion of the inspection a fire protection system is found to be deficient and in need of repairs by the standard(s) in effect at the time of installation but is still functional, the inspector shall prepare a separate report identifying the needed repairs or deficiencies and send it to the Fire Code Official in writing within 7 days of completion of the inspection. The inspector shall submit the report for any Yellow or Red tagged system via email to the fire code official.

901.6.4.3 Tag Required. A RED tag shall be used to indicate that a system, or portion thereof, has been removed from service and notification shall be made immediately in writing to the fire code official.

903.2.8.5 Use Group Change Exemption. Existing detached one-family homes, detached two-family homes, and townhouses lawfully constructed prior to the adoption of this Ordinance (July 23, 2024) may be converted to Use Group R-1 (transient) as a licensed short-term rental without the requirement of an Automatic Sprinkler System as outlined in this Code when the following conditions are met:

1. Emergency Plan posted at main entrance, must include the following:
 - 1.1. Statement: For Emergency Dial 9-1-1.

- 1.2. List 9-1-1 Address of the short-term rental.
- 1.3. Provide the actions to take in the event of a fire (Dial 9-1-1, Evacuate Building, Close Doors).
- 1.4. Provide the allowed occupant load of the short-term rental.
- 1.5. Contact Information for property manager.
- 1.6. Floor Plan: Provide a floor plan depicting the exit routes and fire extinguisher locations.
- 1.7. A safety plan for hazardous weather.
2. Occupied space egress is provided at grade (main floor and walk out basement).
3. Occupied square footage does not exceed 1,600 square feet.
4. Occupant load does not exceed eight.
5. Single station smoke alarms installed to applicable Code.
6. A fire extinguisher (minimum 2A10BC/5 Pound ABC) mounted at each designated exit and each kitchen area.

903.7 Automatic Sprinkler System Riser. Each riser for an automatic sprinkler system shall consist of two main control valves, one below and one above the backflow assembly and two gauges, one at the base of the riser and one at the top of the riser.

903.8 Drop Out Ceiling Tiles. The use of special drop out ceiling tiles are prohibited above or below the fire sprinkler system.

Exceptions:

1. Written approval provided by the registered design professional and the Fire Code Official.

903.9 Tenant Space Control Valves. In multiple tenant space buildings that require a fire sprinkler system, control valves and an

auxiliary drain shall be installed in each tenant space. Control valves installed shall be supervised by the fire alarm control panel.

904.15 Warming Kitchens. Upon written request by the property owner, the Fire Code Official may approve food preparation/serving areas to be designated as a Warming Kitchen that meet the following requirements and following conditions met:

1. Residential-type cooking equipment is installed;
2. The equipment is used only for warming of foods;
3. The equipment is located in areas such as small kitchens or employee lunch rooms;
4. No grease-laden vapors or smoke are produced by the warming of foods;
5. An approved kitchen exhaust removal system vented to the exterior of the building;
6. A minimum 2A10BC (5 pound) fire extinguisher located in the warming kitchen;
7. A signed letter is filed by the owner, with the Fire Code Official, stating that the cooking appliance shall be used only for warming purposes and that no frying or cooking that produces grease-laden vapors or smoke will be permitted or conducted; AND,
8. A permanent, conspicuous plaque is installed above the appliance(s) stating, "WARMING KITCHEN ONLY - NO DEEP FRYING OR GREASE-LADEN VAPORS PERMITTED - AS ADOPTED BY MUNICIPAL ORDINANCE".

These conditions are not transferable between locations or owners. The waiver may be cancelled by the Fire Code Official.

906.1 Where required.

1. Delete in its entirety the Exceptions.

906.5.1 Fire extinguishers. Fire extinguishers shall be placed at or near designated exits, adjacent to fire alarm pull stations where provided.

907.2.1 Group A: Delete in its entirety and the exceptions.

907.2.1 Group A. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group A.

907.2.2 Group B: Delete in its entirety and the exceptions.

907.2.2 Group B. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group B.

Exception: A fire alarm system is not required in occupancies with fewer than 24 occupants unless an existing fire alarm system has been previously installed.

907.2.3 Group E: Delete in its entirety and the exceptions.

907.2.3 Group E: An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group E with an occupant load of 24 or more. When automatic sprinkler systems are installed such systems shall be connected to the building fire alarm system.

907.2.3.1 Group E: An automatic fire alarm system with smoke detection that activates the occupant notification system utilizing an emergency voice/alarm communication system meeting requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E with an Occupant Load of 100 or more and shall be connected to the building fire alarm system. Smoke detection or Heat detection shall also be installed in Mechanical Rooms, HVAC Rooms, Storage Rooms and such Common Areas as required by the Fire Code Official.

907.2.4 Group F: Delete in its entirety and the exception.

907.2.4 Group F: An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group F.

907.2.6 Group I: Delete in its entirety and the exceptions.

907.2.6 Group I: An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group I.

907.2.7 Group M: Delete in its entirety and the exceptions.

907.2.7 Group M. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group M.

Exception: A fire alarm system is not required in occupancies with fewer than 24 occupants unless an existing fire alarm system has been previously installed.

907.2.8 Group R-1: Delete in its entirety.

907.2.8 Group R-1. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group R-1.

907.2.8.1 Delete in its entirety and the exceptions.

907.2.8.4 Use Group Change Exemption. Existing detached one-family homes, detached two-family homes, and townhouses lawfully constructed prior to the adoption of this Ordinance (July 23, 2024) may be converted to Use Group R-1 (transient) as a licensed short-term rental without the requirement of a Fire Alarm System as outlined in this Code when the following conditions are met:

1. Emergency Plan posted at main entrance, must include the following:
 - 1.1. Statement: For Emergency Dial 9-1-1.
 - 1.2. List 9-1-1 Address of the short-term rental.

1.3. Provide the actions to take in the event of a fire (Dial 9-1-1, Evacuate Building, Close Doors).

1.4. Provide the allowed occupant load of the short-term rental.

1.5. Contact Information for property manager.

1.6. Floor Plan: Provide a floor plan depicting the exit routes and fire extinguisher locations.

1.7. A safety plan for hazardous weather.

2. Occupied space egress is provided at grade (main floor and walk out basement).

3. Occupied square footage does not exceed 1,600 square feet.

4. Occupant load does not exceed eight.

5. Single station smoke alarms installed to applicable Code.

6. A fire extinguisher (minimum 2A10BC/5 Pound ABC) mounted at each designated exit and each kitchen area.

907.2.9 Group R-2: Delete in its entirety.

907.2.9 Group R-2. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group R-2.

907.2.9.1 Delete in its entirety and the exceptions.

907.2.9.4 Group R-4. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group R-4.

907.2.24 Group S-1. An automatic fire alarm system with smoke detection that activates the occupant notification system shall be installed in Group S-1 where storage exceeds 5,000 square feet with interior corridors and occupant access.

912.8 Fire Hydrant Required. If a structure is equipped with an automatic fire sprinkler

system, a fire hydrant shall be located within 150 feet of the fire department connection (FDC).

3103.2 Approval Required. Tents and membrane structures having an area in excess of 175 square feet shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

Delete in its entirety Exceptions 2.1 and 2.2.

3103.6.1 Installation Requirements. All tent installations shall be installed in accordance using one or more of the following resources:

1. Wind rated tents: manufacturer's recommendations.
 - a. Tents certified by the manufacturer as a wind-rated tent must meet the ballasting requirements for non-wind rated tents.
2. Non-rated tents: an engineered study by a Missouri professional engineer.
3. Non-rated tents: the manufacturer's instructions.
4. Non-rated tents: specifications outlined in The Industrial Fabrics Association International (IFAI) Procedural Handbook for the Safe Installation & Maintenance of Tentage.

3103.6.2 Documentation of tent installation criteria shall be provided with the permit application. At no time should the criteria be less than outlined by the IFAI Procedural handbook.

3103.6.3 Safety Plan Required. A safety plan is required to be submitted for approval covering; operational use or purpose, fire extinguishers, egress, emergency lighting, heating and cooling, electrical, cooking, interior contents, severe weather, and evacuation.

3103.7.2 Pre-Inspection Required. All tents, ballasting, and tie-downs shall be inspected by the installer for defects, wear, and tear, and

damage prior to the installation of a tent. Tents and their appurtenances with visible damage shall not be installed or erected.

3103.7.3 Fire Department Inspection Required. The installer and a representative/user of a tent or other temporary membrane structure shall be present on site for an inspection by a fire department inspector prior to occupancy or use.

3103.9.4 Ballasting. All tents will be ballasted according to The Clemson Study provided by the IFAI, or an engineered by a Missouri professional engineer, or by manufacturer recommendations.

Exceptions:

1. Privately owned tents and canopies used in commercial applications less than 175 square feet shall be ballasted with a minimum of 25 pounds of weight on each supporting leg.

3103.9.4.1 Each Tent Support Leg and Anchor Point shall have appropriate staking and ballasting as outlined in this code. All jump ropes shall be properly secured.

3103.9.4.2 Staking. All stakes will be installed in accordance with The IFAI Procedural Handbook for the Safe Installation & Maintenance of Tentage.

1. *Stakes Length.* All stakes will have the heads painted the following color indicating length:
 - a. Red: 32" - 39"
 - b. Yellow: 40" - 47"
 - c. Green: 48" or greater
2. *Embedment.* Stake embedment will be identified based upon color:
 - a. Red 28"
 - b. Yellow 34"
 - c. Green 36"
3. *Maximum Stake Exposure.* The maximum amount of stake exposure above the ground shall not exceed:
 - a. Red 4"
 - b. Yellow 6"

- c. Green 12"
- 4. Stakes must be a minimum 1" in diameter.
- 5. Stakes are to be driven vertically between 0 and 15 degrees. In no case shall stakes exceed 30 degrees inclination.
- 6. Stake length should be a minimum of one-half the height of the tent support poles.
- 7. Stakes should be placed a distance from the tent not to exceed the height of the support poles.

3103.9.4.3 Tie Downs / Guy Ropes. The working load of tie-downs shall be rated as provided in The IFAI Procedural Handbook for the Safe Installation & Maintenance of Tentage.

- 1. The rated strength of tie-downs shall meet or exceed twice the ballasting/staking required.
- 2. Tie downs shall be rated for at least 3000 pounds working load limit.
- 3. Ropes shall be at least $\frac{1}{2}$ " in diameter.
- 4. Ratchet type straps shall be clearly marked by the original manufacturer for the approved working load limit rating.
- 5. Ratchet straps shall have a positive locking hook system to prevent it from accidentally becoming unsecured from the stake, grommet, or other securing device.
- 6. Tie downs/guys should be attached within 2" of the ground and in no case be no more than 4" from the ground, regardless of the amount of stake length above ground.
- 7. Tie downs/guys should be attached to the stakes between 2' and 4" from the ground.
- 8. All non-rated tents shall be tensioned to a minimum of 10 pounds per square foot plus a 1.5 safety factor (total 15 pounds per square foot).

3103.9.4.4 Knots. Knots approved in the The IFAI Procedural Handbook for the Safe Installation & Maintenance of Tentage shall be used, unless the tent is wind-rated or is approved by an engineered study by a Missouri professional engineer.

3103.9.4.5 Water Container Ballasting. The use of water containers or barrels to create ballasting weight may be used only with approval of the Fire Code Official in areas where proper staking may damage infrastructure or other identified concerns.

3103.9.4.6 Concrete Block Ballasting. The use of concrete block ballasting may be used only with approval of the Fire Code Official in areas where proper staking may damage infrastructure or other identified concerns.

- 1. Concrete blocks used for ballasting shall be permanently marked with the weight of the block. Each block must weight a minimum of 200 pounds.
- 2. No more than two blocks may be used to provide the required ballasting weight for each tent support leg or pole. When two ballasting blocks are used a load equalizing device should be used.
 - a. Exception: More than two ballasting blocks may be used when a connecting system where they are positively locked so as to act as a single anchor. This system shall be approved by the fire code official.

3103.13 Tent Occupancy. Tents are designed as temporary structures and shall not be used as a place for shelter during weather events including strong winds, thunderstorms, or other forms of severe weather.

- 1. Event organizers using tents or other temporary membrane structures shall maintain situational awareness regarding strong winds, thunderstorms or other forms of severe weather.

2. Tents or other temporary membrane structures shall be evacuated when:
 - a. A severe weather warning is issued by the National Weather Service.
 - b. Privately owned tents under 175 square feet used in a commercial application when wind speeds or gusts exceed 25 miles per hour.
 - c. Commercial tents when wind speeds or gusts exceed 45 miles per hour.
3. Tents evacuated for strong winds, thunderstorms or other forms of severe weather shall be inspected by the Fire Code Official and/or the tent installer prior to re-occupancy.

3103.14 Tent Operations. Use of solid or electric heat sources including equipment for the warming of foods, cooking demonstrations, portable heaters, and similar equipment shall maintain a safe clearance from combustibles to reduce risk of ignition. Use of such equipment shall be approved by the fire code official prior to use.

5307.2.1.1 Carbon Dioxide systems installed in buildings with either existing or new fire alarm systems shall be monitored by the fire alarm system. Such detectors shall be installed per manufacturer's specifications with a BLUE horn strobe mounted on the exterior of the building next to fire alarm horn strobe. The fire alarm panel shall notify occupants by separate interior visual and audible notification of potential CO levels exceeding 5,000 parts per million. Additional audible and visual devices may be required along with signage describing the event as determined by the Fire Code Official.

5607.16 Local Blasting Requirements:

5607.16.1 Permit Required. A permit shall be required for the following conditions and operations:

1. The manufacture, possession, storage, sales, or other disposition of explosive materials.

2. The use of explosive materials.
 - a. Each job site shall require a separate permit.

5607.16.2 Pre-Blast Surveys. The applicant shall make at least three documented attempts to contact the owner of any uncontrolled structures within a scaled distance of thirty-five (35) of the blast site in order to conduct a pre-blast survey of each structure. A pre-blast survey is not required if the owner of any such structure does not give permission for a survey to be conducted.

1. When blasting within a scaled distance of fifty-five (55) of an uncontrolled structure or at locations identified by the fire code official, a seismograph shall be used.

5607.16.3 Written Notice. Written notice shall be delivered to all property owners or occupants within a scaled distance of fifty-five (55) from the site of blasting prior to the start of blasting at any new location. One notification delivered by mail, by telephone, through the printed notification posted prominently on the premises or the property of the owner or occupant of the residence or business, or delivered in person to any such owner or occupant. The information shall contain at a minimum:

1. Blasting contractor's name, address, and contact phone numbers.
2. Starting and ending dates of blasting.
3. Approximate times of day blasting will occur.
4. What the Warning Signals sound like.
5. Location of blasting and for whom the work is done.

5607.16.4 Additional Information. Any authorized representative of the City of Branson or an appropriate fire department official may:

1. Request and be allowed access to the site of blasting by the person

using explosives and shall be allowed to observe blasting from a safe location as designated by the blaster.

2. Examine records of blasting required to be maintained by RSMo 319.309 and 319.315.
3. Report suspected violations of RSMo 319.300 to 319.345 to the Missouri Division of Fire Safety.

5607.16.5 Suspension or revocation of permit. The fire code official shall have the power to suspend for up to fifteen (15) days or revoke a granted permit under the terms and conditions of this article for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the application for permit.
2. Failure to rectify any dangerous condition after being ordered to do so by the fire code official.
3. Reported or suspected violations of city, state or federal regulations, and nationally recognized standards related to blasting or the storage, use or handling of explosives.
4. Upon suspension or revocation, no refund or any portion of the permit fee shall be made to the permittee and the permittee shall cease all blasting operations.

5608.2.1 Add to paragraph:

Shall follow the City of Branson's special events requirements. *5608.2.3 Fixed Site Displays.* Where commercial fireworks are displayed at a fixed site, an annual permit shall be obtained meeting all requirements of this code including:

1. Establishing a fixed site dedicated to the discharge and display of commercial fireworks.
2. Permit holder (operator) is responsible for crowd control measures and providing fire protection measures approved by the fire department.

SECTION 5610 SEASONAL RETAIL FIREWORKS SALES

5610.1 Permit application. Prior to issuing permits for seasonal retail fireworks sales, the applicant shall provide a site plan of the location from which fireworks will be sold, including the location of buildings, highways, overhead obstructions and utilities. A copy of the applicants current Missouri Date Fireworks Sales License shall be provided. The applicant shall also provide flame resistance documentation for the tent used to sell the fireworks from (no sales shall be permitted from permanent occupied buildings).

5610.2 Tents or portable structures used for the sales of fireworks must be a minimum of 50 feet from any other structure or building. The distance increases to 100 feet from a gas station, any location containing hazardous/flammable materials, or any place of assembly. The site location shall comply with all city zoning codes, including a minimum of 25-foot set-back from a road way.

5610.2.1 Tents or portable structures may be erected three business days prior to the start of sales and must be removed no later than three business days after the conclusion of sales time period. If the tent or portable structure is not removed by the expiration of the issued permit then an application shall be made to the Fire Department to obtain a new permit to be issued. The new permit shall be valid for 7 days. Notification shall be made to the Fire Code Official when tents or portable structures have been removed.

5610.2.2 "NO SMOKING" and "FIREWORKS" signs shall be placed on the inside and outside of the fireworks stand. Exit signs shall designate the location of primary exit points. There shall be at least two approved fire extinguishers, One ten pound rated no less than 2A and ONE pressurized Water Type. Exit signs and Emergency lighting shall be provided that function on both AC/DC power if sales are after daylight hours or walls/curtains will be installed. Additional fire extinguishers shall be required for tents larger than 200 square feet.

5610.3 No person shall sell fireworks within the city except for the period beginning at 7:00 a.m. on June 20 through 6:00 p.m. on July 10, except for the retail sales to buyers from outside the State of Missouri.

5610.3.1 Fireworks shall not be sold by any person under the age of 16 and they shall not be sold to any person under the age of 14, unless accompanied by an adult.

5610.3.2 Only Fireworks 1.4G (formerly known as Class C) may be sold.

5610.3.4 Fireworks may not be discharged within 100 feet of where fireworks are sold.

5610.3.5 No smoking will be allowed within 25 feet of stands where fireworks are sold.

5610.3.7 Rules and regulations of the city and state, including all permits, shall be posted and visible in a conspicuous location.

5611 Fireworks Display by the General Public.

5611.1 Fireworks 1.4G (formerly known as Class C) may be discharged by the general public on July 3 and 4 from 7:00 a.m. until 12:00 midnight only.

5611.2 Fireworks may not be discharged within 600 feet of a church, hospital, public school, or place of assembly. Exception: Written permission from the fire code official.

5611.3 Fireworks may not be ignited or discharged within or thrown from a motor vehicle.

D103.2.1 Fire apparatus access roads shall not exceed 15 percent in grade. At commercial approaches, commercial driveway aprons, and commercial driveway change, the algebraic difference of grade shall not exceed 6 percent as measured in 20 feet tangents from the point of change each direction.

L101.1

2.1 Considerations shall also include any structure that requires a standpipe system, 2 or more stories below grade, 7 or more stories

above grade, manufacturing of hazardous chemicals or products or structures that meet or exceed 500,000 square feet of floor area.

(Code 1988, §§ 203.010, 235.020; Code 1996, § 235.010; Code 2005, §§ 38-61, 38-62; Ord. No. 96-105, §§ 235.010, 235.020, 1-13-1997; Ord. No. 98-009, § 1, 1-26-1998; Ord. No. 99-663, § 1, 4-12-1999; Ord. No. 99-981, § 1, 10-25-1999; Ord. No. 2001-028, § 1, 3-26-2001; Ord. No. 2002-073, § 1, 6-10-2002; Ord. No. 2003-128, § 1, 6-23-2003; Ord. No. 2004-152, § 1(235.010), (235.020), 11-8-2004; Ord. No. 2005-039, § 1, 3-28-2005; Ord. No. 2009-001, § 1, 1-13-2009; Ord. No. 2010-072, § 1, 6-22-2010; Ord. No. 2010-125, § 1, 11-23-2010; Ord. No. 2011-012, § 1, 1-11-2011; Ord. No. 2014-0076, § 2(38-61), (38-62), 8-26-2014; Ord. No. 2015-0127, § 2, 11-10-2015; Ord. No. 2018-0148, § 2, 11-13-2018; Ord. No. 2023-0065, § 2, 6-27-2023; Ord. No. 2024-0081, § 2, 9-24-2024; Ord. No. 2024-0087, § 3, 10-8-2024)

Sec. 42-56. Fireworks.

No person shall sell, discharge, dispense, or store fireworks except in conformity with the following provisions:

- (1) Fireworks sales shall be limited to the period beginning at 7:00 a.m. on June 20 and going through 6:00 p.m. on July 10, except for retail sales to buyers from outside the state.
- (2) Discharge of fireworks shall be limited to the periods of 7:00 a.m. to 12:00 midnight on July 3 and 7:00 a.m. to 12:00 midnight on July 4, unless otherwise approved as a special event.
- (3) Fireworks shall not be stored in or dispensed from a permanent building.
- (4) Fireworks sales and storage are governed by:
 - a. A merchant's license as provided by article II of chapter 22; and
 - b. A permit for the premises to be issued by the fire department.
- (5) Fireworks displays for the general public must be approved by the fire department.

(6) The manufacture of fireworks is prohibited.

(Code 1988, § 225.070; Code 1996, § 205.190; Code 2005, § 58-96; Ord. No. 575, §§ 2—8, 10-27-1980; Ord. No. 98-065, § 1, 5-26-1998; Ord. No. 2000-159, § 1, 11-13-2000; Ord. No. 2002-053, § 3, 5-28-2002; Ord. No. 2016-0193, § 2, 12-13-2016)

State law reference—Authority to regulate, restrain and prevent keeping and discharge of fireworks or other dangerous combustible materials, RSMo 79.450(2).

Chapters 43—45

RESERVED

Chapter 46

HEALTH AND SANITATION*

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- Sec. 46-2. Authority to enforce health code.
- Sec. 46-3. Definitions.
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***State law references**—Health and welfare generally, RSMo 191.005 et seq.; municipal health and welfare generally, RSMo 96.150 et seq.; Indoor Clean Air Act, RSMo 191.765; food, drugs, and tobacco, RSMo 196.010 et seq.; municipal authority and duty generally with regard to public health, RSMo 71.680 et seq.; authority for municipal regulation of dairies and milk, RSMo 71.720; authority for municipal inspection of animals intended as food, RSMo 71.730.

BRANSON MUNICIPAL CODE

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HEALTH AND SANITATION

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ARTICLE I. IN GENERAL

Sec. 46-1. Penalty; additional remedies.

(a) Any person violating any of the provisions of this chapter shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-13. In addition thereto, upon the application of the health department, the city attorney is authorized to file, in the circuit court of the county, appropriate injunctive proceedings in order to terminate any danger to public health.

(b) Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator or acting as a participant or worker in any way, who shall violate any of the provisions of this chapter shall be punished as set out in section 1-13.

(Code 1996, § 620.160; Code 2005, § 46-1; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2003-129, § 1, 7-14-2003)

Sec. 46-2. Authority to enforce health code.

The director of the Taney County Health Department is hereby designated as the health official for the city and granted the authority to enforce this chapter and issue all permits within this chapter and other relevant health statutes, through direct action or by designated representative, including the power of quarantine, as may be relevant or necessary. This authority supersedes and includes all references to "director," "health official," "health officer" or other title as may be used throughout this chapter. All authority and references to "health department," "department of health," "department of health and welfare," and "department of health and sanitation," or other similar designation used in this chapter to refer to the city health department, shall hereinafter be designated as the Taney County Health Department.

(Code 2005, § 46-2; Ord. No. 2008-007, § 1, 1-28-2008)

Sec. 46-3. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Air pollutants means the National Ambient Air Quality Standards (NAAQS), for six primary pollutants as established by the EPA Clean Air Act, 42 USC 7401 et seq.

Air pollution means the presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, plant or animal life or health, or to property, or which unreasonably interfere with the enjoyment of life or use of property.

Ambient air means all space outside of buildings, stacks or exterior ducts.

ASME/ANSI standard means a standard accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

Automatic pump shut-off system means a device designed to sense a drain blockage and shut off the pump system.

Bathhouse means the dressing, shower and sanitary facilities that shall be provided for all swimming pools.

Blue or black henna means any product that contains Para-phenylenediamine (PPD) or black hair dye used for temporary skin tattoos.

Body art means the practice of physical body adornment using, but not limited to, the following techniques: tattooing, body piercing, or branding. This definition does not include piercing of the outer perimeter or the lobe of the ear or any procedure performed by a physician or health practitioner licensed by the state.

Body art establishment means any place or facility where body art procedures are performed.

Body art establishment patron means a person receiving a tattoo, body piercing or branding at a body art establishment.

Drain disablement means a device or system that disables the drain. Physical removal of submerged suction outlet from the bottom of the pool as long as there is another source of water for the suction side of the pump available.

Guest room means any room or unit where sleeping accommodations are regularly furnished to the public.

Gravity drainage system means a system that utilizes a separate storage collector tank from which the pool circulation pumps draw water and remove the need for direct suction at the pool.

Health official means the health officer of the city or his duly authorized agent.

Imminent health hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on the following:

- (1) Number of potential illnesses or injuries;
- (2) Nature, severity, and duration of the anticipated illness or injury;
- (3) Effect on the environment or the surrounding geographical area.

Lodging establishment means any building, group of buildings, structures, facility, place, or places of business where five or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, bunkhouse, time share (5 or more owned or managed privately or commercially), or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for any guests.

Main drain means a submerged suction outlet typically located at the bottom of a pool or spa that connects to a recirculation pump for water circulation and filtration.

Massage means the act or art of treating the body by rubbing, kneading, or the like, to stimulate circulation, increase suppleness, and the like.

Massage employee means any and all persons, other than the masseurs or masseuses, who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with customers and clients.

Massage establishment means any establishment having a fixed place of business where any person engages in or carries on or permits to be engaged in or carried on any therapeutic massage activities.

Massage therapist means a health care practitioner who provides or offers to provide massage therapy, as provided in RSMo 324.240—324.275, to any person at no cost or for a fee, monetary or otherwise, implying that the massage therapist is trained, experienced and licensed in massage therapy, who holds a current, valid license to practice massage therapy.

Massage therapy means a health care profession which involves the treatment of the body's tonus system through the scientific or skillful touching, rubbing, pressing or other movements of the soft tissues of the body with the hands, forearms, elbows, or feet, or with the aid of mechanical apparatus, for relaxation, therapeutic, remedial or health maintenance purposes to enhance the mental and physical well-being of the client, but does not include the prescription of medication, spinal or joint manipulation, the diagnosis of illness or disease or any service or procedure for which a license to practice medicine, chiropractic physical therapy or podiatry is required by law, or to those occupations defined in RSMo ch. 329.

Restricted use pesticides means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified

for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

Multiple main drains means a system that consists of, at a minimum, two fully submerged suction outlets per pump.

Pre-open inspection fee means inspections required during plan review process or at the time of change in ownership. These fees are to be charged in addition to all other fees.

Public swimming pool means any place open to the public for swimming or recreative bathing whether or not a fee is charged for use thereof, and shall be classified as pools, outdoor or indoor, which are entirely of artificial construction.

Restricted use pesticides means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

Ringelmann Smoke Chart means standards, published by the United States Bureau of Mines, United States Department of Interior, Information Circular No. 7718 (August 1955), to determine the density of smoke.

Safety vacuum release system (SVRS) means a release system which ceases operation of the pump, reverses the circulation flow or otherwise provides a vacuum release at a suction outlet when a flow blockage is detected and that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17.

Single main drain means a submerged suction outlet connected to one pump. A pool may have more than one single main drain if it has multiple suction outlets that are each connected to a single pump.

Spa means a pool designed for recreational and/or therapeutic use and not drained, cleaned and refilled for each individual. It may include, but shall not be limited to, hydrojet circulation, hot water, cold water, mineral baths, air induc-

tion systems, or any combination thereof. A pool used under direct supervision of qualified medical personnel is excluded.

Suction-limiting vent system means a pipe teed to suction the side of the circulation system on one end and open to the atmosphere on the opposite end. When a blockage occurs at the main drain, air is introduced into the suction line causing the pump to lose prime and relieve suction at the main drain.

Technician means a person trained in the technique of applying micro-insertions of natural pigments to the dermal layer of the skin, perforation of human tissue for a nonmedical purpose, or permanently marking human tissue by burning with a hot instrument or by the causing of scarring, or any person who practices tattooing, body piercing or branding.

Theme park has the meaning provided in chapter 94.

Unblockable drain means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard with minimum dimensions of 18 inches by 23 inches or diagonal measure of 29 inches or larger.

Water slide means of one or more flumes, a plunge pool, or dedicated plunge area of a multiple use pool, a pump reservoir, and water treatment facilities. The plunge pool is located at the base of the flume. The pump reservoir is for the flume pump intake.

(Code 1988, § 260.010; Code 1996, §§ 260.010, 270.010; Code 2005, §§ 46-122, 46-231, 46-521; Ord. No. 356, § 1, 10-10-1966; Ord. No. 2002-029, § 1, 3-25-2002; Ord. No. 2009-011, § 1, 2-24-2009; Ord. No. 2009-012, § 1, 2-24-2009; Ord. No. 2010-038, § 1, 4-13-2010; Ord. No. 2017-0187, § 2, 12-18-2017)

Secs. 46-4—46-22. Reserved.

ARTICLE II. PUBLIC HEALTH AND SANITATION DEPARTMENT

Sec. 46-23. General authority of health official.

(a) The health official shall have authority and shall be required to:

- (1) Enforce the laws of the state, the provisions of this division and all ordinances related to public health, and shall make rules and regulations subject to approval of the board for preserving and promoting public health.
 - (2) Direct and supervise the inspection of all articles or commodities offered for sale within the city for human consumption, including the storage thereof, and including the inspection of and requirements for sanitary conditions and cleanliness of places (whether within or without the city) where such articles or commodities are produced, handled, processed, stored, or offered for sale or consumption, and including the healthfulness, cleanliness and sanitation of all methods, practices, persons and things relating thereto.
 - (3) Exercise general supervision over the health and cleanliness of the city and take all necessary measures for the protection, preservation, and promotion thereof, including the making of any health examinations required by statute or ordinance, and the conduct of programs of public health, and including the power of quarantine and detention to prevent the spreading of contagious and infectious diseases.
 - (4) Cooperate with all other public and private agencies engaged in health activities to the end that a duplication of activities may be avoided as much as possible.
 - (5) Perform such other duties as may be required by law or ordinances of the city.
- (b) The health official shall have the power to enforce ordinances and standards of safety and healthfulness in regard to heating and cooling of

all buildings where the public is invited, where such heating and cooling shall be adverse to the health of the public.

(c) All physicians or medical personnel shall report to the health official such information concerning disease, injuries or sanitary conditions which are required or significant in respect to public health.

(Code 1988, § 115.070(C); Code 1996, § 250.030; Code 2005, § 46-33; Ord. No. 525, § 3, 6-26-1978)

Sec. 46-24. Right of entry of health official; entry without warrant.

(a) *Right to ingress and egress.* In carrying out the duties mentioned in this article, the health official shall have the right to ingress and egress in accordance with the constitution of the United States of America, the state, all statutes and laws made and provided, and all other ordinances of this city, and shall have the right to a warrant for entry where such entry is or would be reasonable and necessary for the preservation of health and the prevention of disease or harm to the people.

(b) *Right to enter certain establishments without warrant.* In such places as the general public would be normally permitted, and the kitchen and storage areas of all food handling establishments licensed to do business in this city, the health official has the right to enter without warrant. If the owner or manager does not permit entry under those conditions for reasonable inspection, then and in that event a hearing will be called and a warrant obtained for entry and inspection of the premises, under the administrative search warrant provisions in chapter 30.

(Code 1988, § 115.070(D), (H); Code 1996, §§ 250.040, 250.080; Code 2005, § 46-34; Ord. No. 525, §§ 4, 8, 6-26-1978; Ord. No. 2011-013, § 1, 1-11-2011)

Sec. 46-25. Cooperation with other agencies.

The health official shall cooperate with all other city and state agencies in all things pertaining to public health, including sewage and waste disposal, and the supply of drinking water for

the public where it relates to or is concerned with public health, and the health official shall be responsible to make the determination when and whether the sewage disposal system and the public drinking water supply do in fact comply with the requirements of health, and this determination shall be made in cooperation with other agencies interested in those areas. The health department shall be responsible in cooperation with such agencies to bring about a correction of any defect.

(Code 1988, § 115.070(E); Code 1996, § 250.050; Code 2005, § 46-35; Ord. No. 525, § 5, 6-26-1978)

Sec. 46-26. Recommendations for ordinances.

The health official shall make such recommendations for ordinances as are required to protect the body politic.

(Code 1988, § 115.070(F); Code 1996, § 250.060; Code 2005, § 46-36; Ord. No. 525, § 6, 6-26-1978)

Sec. 46-27. Control of carriers of disease.

The health official shall take measures and recommend measures to control human or animal carriers of disease, including control of dogs, cats, mosquitoes, rats, flies, fleas, or other vermin which may transmit disease. Dog or cat bites, and all wild animal bites, shall be reported to the health department. The health department shall confine the dog or cat in question, and, if possible, the wild animal in question, in an appropriate place for observation for a period of not less than ten days. At the end of this ten-day period, domestic dogs or cats, if living, will be released upon authority from the proper city, county, or state health officials. All matters relating to possible cases of rabies will be reported to the proper city, county or state health authorities, who will take whatever measures that are needed or required under law. All wild animals confined for observation, at the end of the ten-day period, may be destroyed if necessary, and disposed of in accordance with the rules and regulations of the proper health authority.

(Code 1988, § 115.070(G); Code 1996, § 250.070; Code 2005, § 46-37; Ord. No. 525, § 7, 6-26-1978)

Sec. 46-28. Toilet facilities and washrooms at eating establishments.

All established places of business where the public is invited to sit down and eat on the premises shall have a place sanitary and clean for public toilets and washrooms, on the premises or reasonably located nearby. From and after the passage of the ordinance from which this section is derived, all new eating establishments shall have toilet facilities and public washrooms on the premises.

(Code 1988, § 115.070(I); Code 1996, § 250.090; Code 2005, § 46-38; Ord. No. 525, § 9, 6-26-1978)

Sec. 46-29. Inspection of food handling establishments.

There is herewith required of all licensed eating establishments that the operator of such establishment maintain the premises and the processes for the storage, handling, preparation, and serving of foods in a sanitary and healthful manner. The health department, by health official, shall have the right to inspect all food handling establishments, and if in the opinion of the health department the premises are not being maintained in a sanitary and healthful manner, then and in that event the health department shall issue a notice to the proprietor, who shall have ten days in which to correct all critical defects which shall be specifically noted by the health department. If the operator chooses not to correct these defects, then and in that event, upon application by the health official, the premises may be considered a public nuisance for action by the city attorney, all in accordance with law.

(Code 1988, § 115.070(J); Code 1996, § 250.100; Code 2005, § 46-39; Ord. No. 525, § 10, 6-26-1978; Ord. No. 2014-0106, § 2(46-39), 10-28-2014)

Sec. 46-30. Inspection of restrooms.

All restrooms in service stations, garages, and other public type places, where the public is invited to use such restrooms, shall be kept in a healthful, sanitary fashion, and the health official and his employees have the right and duty to make recommendations and suggestions to the

proprietor or manager of such place of business as to the condition of such restrooms, and, after a five-day period, if improvement is not noted, then and in that event the matter shall be referred to the city attorney for action as a violation of this article.

(Code 1988, § 115.070(L); Code 1996, § 250.110; Code 2005, § 46-40; Ord. No. 525, § 11, 6-26-1978)

Sec. 46-31. Fee schedule; payment of fees.

All fees required by this chapter are as provided in the city fee schedule. Annual permit fees shall be paid on or before May 1 of each year. For high and medium risk food establishments opened after November 1, permit fees shall be prorated. Impound fees shall be paid to the county health department. Pre-open inspection fees for inspections required during the plan review process or at the time of change in ownership are charged in addition to all other fees. The Branson R-IV School District shall be exempt from any fee in this chapter.

(Code 2005, § 46-61; Ord. No. 2001-021, § 1, 2-26-2001; Ord. No. 2003-130, § 1, 7-14-2003; Ord. No. 2006-073, § 1, 5-8-2006; Ord. No. 2007-052, § 1, 5-29-2007; Ord. No. 2009-010, § 1, 2-24-2009; Ord. No. 2010-124, § 1, 11-23-2010; Ord. No. 2014-0002, § 1, 1-14-2014)

Secs. 46-32—46-52. Reserved.

ARTICLE III. FOOD AND FOOD ESTABLISHMENTS

Sec. 46-53. Food Code.

(a) *Adopted.* The Food Code, 2009 Recommendations of the United States Public Health Service/Food and Drug Administration, chapters 1 through 8 and annex 1, published by the U.S. Department of Health and Human Services, Public Health Services, Food and Drug Administration, a copy of which is on file in the office of the city clerk, is hereby adopted by the city with the additions, insertions, deletions and changes, if any, prescribed in this article. Fees associated with the adopted food code shall be as provided in the city fee schedule.

(b) *Amendments.* The code adopted by subsection (a) of this section is hereby amended by substituting the following sections or portions of sections for those sections or portions of sections with corresponding numbers of the Food Code, 2009 Recommendations of the United States Public Health Service/Food and Drug Administration, or where there is no corresponding section in the code, the following sections shall be enacted as additions to the code:

Chapter 2, section 2-102.11. Add as follows:

- (D) All food employees who work with unpackaged food, food equipment or utensils, or food contact surfaces shall have taken and passed a short course on applied food service sanitation as approved by the health department.

Chapter 3, section 3-305.11(D). Add as follows:

- (D) Breading mix shall be protected by:
 - (1) Sifting after each use to remove all moist material and refrigerated between uses.
 - (2) Fresh dry mix shall not be added to moist mix.
 - (3) Used dry or wet mix shall not be returned to bulk mix.

Chapter 3, section 3-501.16(C). Delete in its entirety.

Chapter 3, section 3-501.16(C). Add as follows:

- (C) Buffet lines.
 - (1) On a buffet line, when product is not in compliance with temperature control parameters product container shall be clearly marked showing time placed on buffet line and product shall be held no longer than three continuous hours and then discarded.

Chapter 4, section 4-204.112(F). Add as follows:

- (F) Provide an approved thermocouple or metal stem food service

thermometer or time/temperature indicator (TTI) to check cooking and serving temperature of all foods.

Chapter 5, section 5-402.12. Grease trap.
Delete in its entirety.

Chapter 5, section 5-402.12. Add as follows:

Grease traps shall be used in all grease/oil/fat producing facilities and shall be designed, installed, and operated in compliance with the city's current grease trap policy and shall be easily accessible for content removal.

Chapter 8, section 8-401.20. Add as follows:

(H) Other risk factors with the currently used risk assessment form as used by the health department across the jurisdiction.

Chapter 8, sections 8-405.11(C) and (D).
Add as follows:

(C) When a food establishment receives a score of less than 70 but greater than 59 on a routine inspection, then that establishment, at the discretion of the health department, shall have three days to correct all priority and 90 percent of priority foundation and core violations.

(D) When a food establishment receives a score of less than 60 on a routine inspection, or with six or more priority violations, it shall have 24 hours to correct all priority and 95 percent of all priority foundation and core violations, or be immediately closed for a time frame determined by the health inspector.

Chapter 8, section 8-911.10(B). Delete in its entirety.

Chapter 8, section 8-911.10(B). Add as follows:

(B) A person who violates a provision of this code shall be guilty of a misdemeanor, punishable by:
(1) A fine of not more than \$500.00, or by imprisonment not exceeding 90 days, or both the fine and imprisonment.

Chapter 8, section 8-913.10(B). Delete in its entirety.

Chapter 8, section 8-913.10(B). Add as follows:

(B) In addition to any criminal fines and sentences imposed as specified in 8-911.10, or to being enjoined as specified in 8-912.10, a person who violates a provision of this code, any rule or regulation adopted in accordance with law related to food establishments within the scope of this code, or to any term, condition, or limitation of a permit issued as specified in 8-303.10 and 8-303.20 is subject to a civil penalty.

(Code 1996, §§ 255.010, 255.020; Code 2005, §§ 46-101, 46-102; Ord. No. 95-135, §§ 1, 2, 12-11-1995; Ord. No. 98-010, § 2, 1-26-1998; Ord. No. 2001-064, § 1, 6-11-2001; Ord. No. 2014-0106, §§ 2(46-101), 2(46-102), 10-28-2014)

Sec. 46-54. Permit.

A food establishment permit shall be required and displayed in a conspicuous place. The fees for such permit shall be paid according to the city fee schedule.

(Code 1996, § 255.030; Code 2005, § 46-103; Ord. No. 95-135, § 3, 12-11-1995; Ord. No. 98-010, § 1, 1-26-1998; Ord. No. 2001-021, § 2(D), 2-26-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, changed the title of § 46-54 from "Health permit fees" to read as herein set out.

Secs. 46-55—46-79. Reserved.

ARTICLE IV. LODGING ESTABLISHMENTS

Sec. 46-80. Applicability.

The requirements set out in this article shall be equal to, if not greater than, the current state health department guidelines for the operation of a lodging establishment. In the event of a conflict, the more stringent shall apply.
(Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-81. Generally.

(a) *License and permit required.* It shall be unlawful for any person to establish, maintain or operate a lodging establishment, as defined in this Code, within the city without first having obtained a lodging license from the state department of health and senior services, a lodging establishment permit from the health official, and any other permit or license as required by this Code.

(b) *Application.* Any person desiring a lodging establishment permit shall make written application for a permit on forms provided by the health official. The application shall include the applicant's full name, address, telephone number, location of the proposed lodging establishment and such other information as may be required.

(c) *Annual fee.* An annual fee shall be paid pursuant to the city fee schedule at the time the lodging establishment permit is issued.

(d) *Expiration; transfer; existing establishments.* A lodging establishment permit may be granted at any time during the year. Lodging establishment permits shall not be transferable.

(e) *Posting.* A current lodging establishment permit shall be posted at all times in a prominent and conspicuous place in the lodging establishment where it may be readily observed by lodging establishment patrons.

(Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-82. Inspections required.

(a) Prior to approval of a lodging establishment permit, the health official shall inspect the lodging establishment to determine compliance with the requirements of this article.

(b) The health official, after proper identification, shall be permitted to enter any lodging establishment at any reasonable time for the purpose of making routine, revisit and complaint investigation inspections to determine compliance with this article.

(c) During an inspection, if the health official discovers that a permit holder has failed to comply with this article, or the rules and regula-

tions of this Code, and the violation is, or may become an imminent health hazard or a life-threatening violation, they shall:

- (1) Immediately lock, secure or close the area of violation and post a sign indicating that the room, area or lodging establishment is closed;
 - (2) Inform the permit holder or their agent, or employee in writing that a violation exists;
 - (3) Allow the permit holder an opportunity to correct the violation within a reasonable period of time, as determined by the health official; and
 - (4) Re-inspect the lodging establishment to determine if the violation still exists.
- (d) During an inspection, the permit holder shall correct any imminent health hazards or life-threatening violations of this article, and implement corrective actions to prevent violation from recurring.

- (1) Considering the nature of the violation involved and the complexity of the corrective action needed, the health official may agree to or specify a longer time frame, not to exceed ten calendar days after the inspection, for the permit holder to correct an imminent health hazard or a life-threatening violation.
- (2) For a non-imminent health hazard or life-threatening violation the permit holder shall correct the violation by a date and time agreed to or specified by the health official, but no later than 30 calendar days after the inspection.
- (3) The health official may approve a compliance schedule that extends beyond the time limits specified within this section if a written schedule of compliance is submitted by the permit holder and no imminent health hazard exists or will result from allowing an extended schedule for compliance.
- (4) If the health official finds the permit holder still in violation after three re-inspections, the health official shall notify

the permit holder in writing of the intention to suspend or revoke the lodging establishment permit and allow the permit holder an opportunity for a hearing.
(Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-83. Revocation or suspension of permit.

(a) Lodging establishment permits may be suspended by the health official for failure of the holder to comply with the requirements of this article. Whenever the health official finds unsanitary or other conditions in the operation of a lodging establishment which, in their judgment, constitute an imminent health hazard, or for interference with the health official in the performance of their duties, the health official may issue a written notice to the permit holder citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken. If deemed an imminent health hazard, such order shall state that the permit is immediately suspended and all lodging establishment operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately, but upon written petition to the health official shall be afforded a hearing within five days before the health official as hearing officer.

(b) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within five business days following the receipt of a written request, the health official shall make a reinspection. If the applicant is complying with the requirements of this article, the permit shall be reinstated.

(c) For serious or repeated violations of any of the requirements of this article, or for interference with the health official in the performance of his duties, the permit may be permanently revoked after an opportunity for a public hearing as provided in chapter 30 of this Code for administrative hearings.
(Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-84. Remedies.

The health official may enforce the regulations of this article by any remedies provided by state statute, or the city may institute lawsuits for injunction, mandamus, abatement, or any other appropriate actions or proceedings to remedy, prevent, enjoin, abate, or remove such violations.
(Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-85. Operations and lodging establishment requirements.

(a) *Sanitation and housekeeping.* Lodging establishments shall be kept in a clean and sanitary condition, in good repair, and shall be maintained and operated with strict regard to the health and safety of the patrons. The following items shall be held in compliance:

- (1) Walls, floors and ceilings of guest rooms shall be kept clean and in good repair. Furnishings, including draperies, beds, appliances, furniture and lamps, shall be kept clean and in good repair.
- (2) Guest rooms and related facilities shall be cleaned and maintained as follows:
 - a. A room in use shall be cleaned at least each time a different guest rents the room. When the same guest continuously occupies a room, the room shall be cleaned and verified that all safety equipment is in place at least weekly.
 - b. Clean towels and washcloths shall be provided in the guest room each day that guest room is occupied by a different guest.
 - c. Clean bed linens shall be provided in the guest room each day that guest room is occupied by a different guest. If the same guest continuously occupies a room, bed linens and towels shall be changed at least weekly. Bedspreads shall be clean and maintained in good repair.
 - d. When the same guest continuously occupies a room, the permit holder shall provide to the city upon request

- a weekly checklist with dates and times that the room was provided bed linens, towels and a checklist addressing the following:
- (i) Working smoke detectors hardwired and battery backup available.
 - (ii) No empty light sockets present.
 - (iii) All GFCI outlets in proper working condition.
 - (iv) No more than two, six-foot extension cords in the room.
 - (v) Fresh linens and towels provided to the guest.
 - (vi) No bare or frayed wiring exposed.
 - (vii) Egress routes available and in good repair.
 - (viii) Light bulbs in working order and do not exceed the wattage rating of corresponding light fixtures.
 - (ix) No garbage or refuse build up present.
 - (x) No insects or pests present at time of inspection.
- e. Mattresses and box springs shall be clean and in good repair. The sleeping surfaces of a mattress in use shall be completely covered by a sheet. Excessively damaged or soiled mattresses or box springs shall be replaced.
- f. Single-service drinking glasses, lids and utensils, if provided in guest rooms, shall be individually wrapped.
- g. Reusable glasses and utensils, if provided, shall not be located within the room housing the toilet unless approved by the health official; and,
- h. Reusable glasses and utensils, if provided, shall be washed, rinsed and sanitized using one of the following practices:
- (i) A sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing the reusable items. Sink compartments shall be large enough to accommodate immersion of the largest piece of equipment and utensil;
 - (ii) A mechanical dishwasher that meets the requirements for washing, rinsing and sanitizing as outlined in this Code; or
 - (iii) Other methods approved by the health official.
- (3) Ice provided for guests' use shall be from a commercial source or made from a potable water supply. The ice shall be protected from contamination, which shall include the following:
- a. Ice machines, dispensers or chests shall be sheltered from the weather, kept in good repair and the ice compartment shall be kept clean and free of mold, rust, debris, foreign objects or other contaminants. All lodging establishments that replace or add a new ice machine shall only provide dispensing type self-service ice machines;
 - b. An approved scoop with a handle that is seamless and without cracks shall be provided for each bin-type ice machine or chest. The scoop may be stored in a holster in the ice compartment, in a smooth non-absorbent holder outside the ice machine or chest, or in another manner acceptable to the regulatory authority;
 - c. Refrigerators, ice machines and ice trays within guest rooms shall be kept clean and sanitary. Ice shall be removed from the ice bin and ice trays each time a different guest rents the room;
 - d. Individual ice buckets or containers, if provided, shall be kept clean,

- in good repair, and constructed of a smooth, nonabsorbent, food-grade material;
- (i) If a food-grade single service liner is provided, the individual ice buckets or containers shall be washed, rinsed and sanitized as needed. Reuse of the food-grade single service liner is prohibited.
- (ii) If a food-grade single service liner is not provided, the individual ice buckets or containers shall be washed, rinsed and sanitized at least each time a different guest rents the room using one of the following practices:
- (a) A sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing the reusable items. Sink compartments shall be large enough to accommodate immersion of the largest piece of equipment and utensil;
- (b) A mechanical dishwasher that meets the requirements for washing, rinsing and sanitizing as outlined in this Code; or
- (c) Other methods approved by the health official.
- e. Ice buckets or containers, if provided, shall not be located within the room housing the toilet unless approved by the health official.
- (4) Guest rooms shall be kept neat and free of refuse and debris, which shall include the following:
- a. Garbage and refuse shall be stored in a durable, leakproof and pest-proof non-absorbent container; and
- b. Garbage and refuse shall be disposed of on a routine basis;
- (b) *Insect and rodent control.*
- (1) Every lodging establishment shall be constructed and maintained to prevent the entrance, harborage, or breeding of flies, cockroaches, bed bugs, fleas, rats, mice, birds, and all other insects and pests. Routine inspections of the premises shall be conducted to control and minimize the presence of pests and eliminate harborage conditions.
- (2) Professional pest services shall be used for preventive maintenance and for control and elimination of the presence of pests, or the health official may approve the following:
- a. For the control of bed bugs, a lodging establishment may self-treat with commercial grade heat treating equipment. The person administering the heat treatment must be able to demonstrate knowledge of how to use equipment and also have in their possession a manufacturer's manual for the operation of the heat treating equipment. If knowledge cannot be demonstrated the lodging establishment's right to self-treat will be revoked and a professional pest control company will be required for treatment.
- b. In the case the facility is not successful in self-treating for bed bugs, the health official will require professional pest control and a pest management program.
- (3) Pesticide application. Poisonous or toxic materials shall be:
- a. Used according to:
- (i) This Code;
- (ii) Manufacturer's use directions included in labeling;
- (iii) The conditions of certification, if certification is required, for use of the pest control materials;

- (iv) Additional conditions that may be established by the health official; and
 - b. Applied so that:
 - (i) A hazard to employees or guests is not constituted;
 - (ii) Contamination including toxic residues due to drip, drain, fog, splash or spray is prevented; and
 - (iii) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC 136 Definitions, (e) Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act, or a person under the direct supervision of a certified applicator.
 - (4) Removal. Dead or trapped birds, insects, rodents, and other pests shall be removed from pest control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.
- (Ord. No. 2017-0187, § 2, 12-18-2017)

Secs. 46-86—46-94. Reserved.

ARTICLE V. SWIMMING POOLS*

DIVISION 1. GENERALLY

Sec. 46-95. Scope.

(a) *Applicability of state guidelines.* The swimming pool code set out in this article, as adopted by the city, shall be equal to, if not greater than, the current state health department guidelines for the design and operation of a swimming pool, spa or water facility. In the event of a conflict the more stringent shall apply.

*Editor's note—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, renumbered former art. IV, §§ 46-85—46-99 as art. V, §§ 46-95—46-109.

- (b) *Inspections.* All public pools, spas and water facilities within the city limits, and those outside the city limits that are serviced by the city water and sewer service, shall be inspected for safety and water quality on a routine schedule by the health official.
- (c) *Permit.* A pool and spa permit shall be required and displayed in a conspicuous place. The fees for these permits shall be paid according to the city fee schedule.
- (d) *Special pool features or uses.* Standards for unique features of spas, wave pools, zero-depth pools and water slides are provided in separate sections. Any pools used for other special purposes, such as therapy or competition, require additional design consideration and should be handled on an individual basis.

(e) *Exemption of private pools.* These standards do not apply to private pools.
(Code 1996, §§ 260.005, 260.010; Code 2005, § 46-121; Ord. No. 2001-021, § 2(B), 2-26-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-96. Patron loading.

(a) *Designation of areas.* For purposes of computing patron load within the pool enclosure, those portions of the swimming pool five feet or less in depth shall be designated the "shallow area." Those portions of the swimming pool over five feet in depth shall be designated the "deep area."

(b) Area loading.

- (1) *Shallow area.* Fifteen square feet of pool water surface area shall be provided for each patron.
- (2) *Deep area.* Twenty-five square feet of pool water surface area shall be provided for each patron.
- (3) *Diving area.* Three hundred square feet of pool water surface area shall be reserved around each diving board or diving platform, and this area shall not be included in computing the permissible patron load.

- (4) *Excess deck allowance.* Additional allowance will be made on the basis of one additional patron allowed per each 50 square feet of pool deck in excess of the minimum area of deck required.

(Code 1996, § 260.020; Code 2005, § 46-123; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-97. Design details and structural stability.

All swimming pools shall be designed and constructed to withstand all anticipated loading for both full and empty conditions. A hydrostatic relief valve and/or a suitable underdrain system shall be provided. The designing architect or engineer shall be responsible for certifying the structural stability and safety of the pool in both full and empty conditions.

- (1) *Shape.* The shape of any swimming pool shall be such that the circulation of pool water and control of swimmers' safety are not impaired. There shall be no underwater or overhead projections or obstructions which would endanger patron safety or interfere with proper pool operation.
- (2) *Minimum depth.* The minimum depth of water in the pool shall be at least 2.5 feet but not more than 3.5 feet except for special purpose pools.
- (3) *Bottom slope.* The bottom of the pool shall slope toward the main drain. The slope in water depths less than five feet shall not exceed one foot vertical in 12 feet horizontal.
- (4) *Marking of boundary between shallow and deep areas.* The boundary line between the shallow and deep areas shall be marked by a line of contrasting color on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers.
- (5) *Pool walls.* Walls of a swimming pool shall be either:
- Vertical for water depths of at least six feet; or

- Vertical for a distance of at least three feet below the water level, below which the wall may be curved to the bottom with a radius not greater than the difference between the depth at that point and three feet; provided that vertical is interpreted to permit slopes not greater than one foot horizontally for each five feet of depth of sidewall (11 degrees from vertical).

- (6) *Ledges.* Ledges shall not extend into the pool unless they are essential for support of the upper wall construction.

- (7) *Diving areas.* The minimum dimensions of the swimming pool and appurtenances in the diving area shall conform to the table in section 46-134. (Note: These diving area dimensions do not meet the requirements of NCAA or AAU.) Dimensions for diving pools shall be in accordance with the Standards of International Amateur Swimming and Diving Federation (FINA).

- Headroom.* There shall be a completely unobstructed clear distance of 16 feet above the diving board measured from the center of the front end of the board. This area shall extend at least eight feet behind, eight feet to each side, and 16 feet ahead of the measuring point.

- Diving boards and platforms.* Diving boards and platforms in excess of three meters in height are prohibited except where special design considerations and control of use are provided.

- Steps and guard rails for diving boards.* Supports, platforms and steps for diving boards shall be of substantial construction and of sufficient structural strength to safely carry the maximum anticipated loads. Steps shall be of corrosion-resistant material, easily cleanable and of nonslip design. Handrails shall be provided at all steps and

ladders leading to diving boards more than one meter above the water. Platforms and diving boards which are one meter high or higher shall be protected with guard rails 36 inches high extending at least to the edge of the water. Boards or platforms three meters or higher shall have an effective side barrier.

- (8) *Slides.* Slides for use in swimming pools shall conform to part 1207, Safety Standard for Swimming Pool Slides, of the U.S. Consumer Product Safety Act (15 USC 2051 et seq.).

- (9) *Ladders, recessed steps and stairs.*

- a. *Location.* Recessed steps, ladders or stairs shall be provided at the shallow and deep ends. Recessed steps or ladders shall be provided in the deep portion. If the pool is over 30 feet wide, such steps, ladders or stairs shall be installed on each side.
- b. *Ladders.* Pool ladders shall be corrosion-resistant and shall be equipped with nonslip treads. All ladders shall be so designed as to provide a handhold. There shall be a clearance of not more than six inches or less than three inches between any ladder and pool wall.
- c. *Recessed steps.* Recessed steps shall be readily cleanable and shall be arranged to drain into the pool. Recessed steps shall have a minimum tread of five inches and a minimum width of 14 inches.
- d. *Handrails.* Where recessed steps or ladders are provided, there shall be a handrail at the top of each side thereof extending over the coping or edge of the deck.
- e. *Stairs.* Where stairs are provided, they shall be located diagonally in a corner of the pool or be recessed. They shall be equipped with a handrail. Stairs shall be of nonslip

design, and have a minimum tread of 12 inches and a maximum rise of ten inches.

- (10) *Decks.* A deck shall entirely surround the pool. It shall be not less than five feet wide. The deck shall be of a uniform, easily cleaned, impervious material and be of slip-resistant construction. The deck shall be protected from surface runoff.
 - a. *Slope.* The deck shall be sloped at least one-fourth inch per foot to deck drains or grade.
 - b. *Drainage.* Deck drains, when used, shall be spaced and arranged so that not more than 400 square feet of area is tributary to each drain and drains shall not be spaced more than 25 feet apart. There shall be no direct connection between the pool deck drains and the sanitary sewer system, or the pool gutter or recirculation system.
 - c. *Roll-out gutters.* If the pool is equipped with roll-out deck level gutters, not more than five feet of deck shall be sloped toward the gutters.
 - d. *Carpeting.* Carpeting shall not be permitted on pool decks unless special design considerations are provided and approved by the health department.
 - e. *Hose bibs.* Hose bibs shall be provided to facilitate flushing of the deck areas.
 - f. *Spectator areas.* There shall be an effective separation between spectator areas and swimmer areas.
 - g. *Pool concessions.* There shall be complete separation between areas where food and drink are served and areas used by pool patrons.
- (11) *Fencing.* The deck area must be completely surrounded by walls and/or fencing not less than four feet high and of a design that will control the movement of patrons and restrain the entrance of non-patrons.

Any special purpose areas inside the perimeter walls and/or fence must be fenced or constructed to control traffic. These areas shall be designed so they will not drain onto the deck. Any entrance to the pool shall be provided with a self-closing and latching gate capable of being locked. The opening device for the latch on the gate or door shall be at least four feet high, to keep young, unattended children from gaining access to the pool.

(Code 1996, § 260.030; Code 2005, § 46-124; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-98. Safety requirements.

(a) *Depth markings.*

- (1) *Location of depth markings.* Depth of water shall be plainly marked at or above the water surface on the vertical pool wall and on the edge of the deck, at maximum and minimum points of break between the deep and shallow portions, and at intermediate increments of depth, spaced at not more than 25-foot intervals measured peripherally. Markings shall be on both sides and ends of the pool. Where depth markings cannot be placed on the vertical walls above the water level, other means shall be used so that the markings will be plainly visible to persons in the pool.
- (2) *Size of depth markings.* Depth markings shall be in numerals of four inches minimum height and with color contrasting with the background.

(b) *Lifeguard chairs/stations.* Swimming pools, spas and recreational water facilities having an area of more than 3,400 square feet of water surface shall be provided with an elevated lifeguard chair or station. For each additional 2,000 square feet of water surface area, additional elevated chairs or stations shall be provided. Chairs should be placed in locations which will eliminate sun glare on the water, and in positions which will give complete coverage of the

pool within a field of view limited to 45 degrees on either side of direct line of sight extending straight out from the chair.

(c) *Lifesaving equipment.*

- (1) *Units required.* One unit of lifesaving equipment shall be provided for each 2,000 square feet of water surface area or major fraction thereof. A minimum of one unit shall be provided.
- (2) *Unit composition.* One unit of lifesaving equipment shall consist of the following:
 - a. *Throwable devices.* A federal coast guard-approved ring, 18 inches in diameter, or throwing buoy fitted with a one-fourth-inch diameter line with a length of 1.5 times the maximum width of the pool or 50 feet, whichever is less.
 - b. *Reaching devices.* A life pole, or shepherd's crook type of pole, having blunted ends with minimum length of 12 feet and able to reach to the center of the bottom of the pool at the deep end.
 - c. *Location.* Lifesaving equipment shall be mounted in conspicuous places, distributed around the swimming pool deck. Whenever lifeguard chairs/stations are provided, each shall be equipped with one unit of lifesaving equipment.

(d) *First aid equipment.* Every swimming pool shall be equipped with a minimum of a Red Cross standard 16-unit first aid kit, or its equivalent. A spine board should be provided at each pool.

(e) *First aid room.* Swimming pools with a surface area in excess of 4,000 square feet should have a readily accessible room or area designated and equipped for emergency care.

(f) *Emergency exit.* An emergency exit from the pool area shall be provided.

(g) *Attendant alarm.* Any swimming pool, spa, or recreational water attraction which is located such that it is not at all times in direct view of the attendant shall have, in the immediate vicin-

ity of the pool, a clearly labeled alarm device that can be activated when a bather is in trouble and is easily heard throughout the area or building. This alarm shall produce a distinctly different sound than that of the high temperature alarm and the facility shall have a non-pay telephone permanently installed at poolside which is readily accessible and conspicuously located. The telephone shall have signage stating call 911 in case of emergency or connect directly with an attendant. All drowning and injuries requiring hospitalization shall be immediately reported to the health department.

(Code 1996, § 260.040; Code 2005, § 46-125; Ord. No. 2006-013, § 1, 2-13-2006; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-99. Ventilation and acoustical requirements.

(a) *Ventilation.* Bathhouses, mechanical equipment rooms, storage areas and indoor swimming pool enclosures shall be adequately ventilated. Room ventilation shall prevent direct drafts on swimmers and shall minimize condensation damage. A heating unit shall be kept from contact with swimmers. A fuel-burning heating unit shall be properly vented to the outdoors.

(b) *Acoustical control.* Acoustical control shall be provided for indoor pools.

(Code 1996, § 260.050; Code 2005, § 46-126; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-100. Water supply and wastewater disposal.

(a) *Water supply.* The source and quality of the water supplied to the pool and all plumbing fixtures including drinking fountains, lavatories and showers shall at all times meet the standards of the health department for potable water.

(b) *Cross connection control.* All portions of the water distribution system serving the swimming pool and auxiliary facilities shall be protected against backflow and backsiphonage. Water introduced into the pool, either directly or to the

recirculation system, shall be supplied through an air gap or by another method in accordance with chapter 90, article IV, division 3.

(c) *Sanitary wastes.* An approved method for disposing of sanitary sewage shall be provided. Where available, a municipal sanitary sewerage system shall be used. If a private subsurface disposal system or other system must be used, approval of the system must be obtained from the health department and utilities department.

(d) *Pool wastewater.* Pool wastewater shall be discharged in a manner approved by the health department and utilities department.

(e) *Backflow prevention.* The swimming pool and recirculation system shall be protected against backflow.

(Code 1996, § 260.060; Code 2005, § 46-127; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-101. Recirculation system.

A recirculation system consisting of pumps, piping, filters, water conditioning and disinfection equipment, and other accessory equipment shall be provided which will clarify, chemically balance and disinfect the swimming pool. A minimum turnover of the entire volume in six hours (four times in 24 hours) is required, except that the recirculation rate shall be increased to provide a two-hour turnover for wading pools.

(1) *Capacity.* The sizing of pipes, fittings and valves of the pool recirculation system shall be based on flow velocities not exceeding six feet per second under suction, ten feet per second under pressure and three feet per second in gravity.

(2) *Pipe marking.* All exposed piping shall be marked. The name of the liquid or gas and arrows indicating direction of flow shall be marked on the pipe.

(3) *Overflow systems.* All pools shall be designed to provide continuous skimming (removal of surface water). Make-up water supply equipment shall be provided to maintain continuous skimming.

a. *Gutters (perimeter overflow systems).* The overflow shall extend completely

- around the pool. It shall be level within a tolerance of plus or minus one-eighth inch. Piping connections shall be provided to permit water to flow from overflows to waste, as well as to the recirculation system.
1. *Size and shape.* The gutter system shall be designed for continuous removal of water from the pool's upper surface at a rate of at least 125 percent of the recirculation rate. The gutter shall be designed to serve as a handgrip and to prevent entrapment of arms or legs. It shall permit ready inspection, cleaning and repair.
 2. *Outlets.* Drop boxes, converters, return piping or flumes used to convey water from the gutter shall be designed to handle 125 percent of the recirculation rate. Drainage shall be sufficient to minimize flooding and prevent backflow of skimmed water into the pool.
 3. *Surge capacity.* All overflow systems shall be designed with an effective surge capacity of not less than one gallon for each square foot of pool surface area. Surge shall be provided within a surge tank, in the gutter or filter above the normal flow line, or elsewhere in the system. Surge tanks, gutters and filter tanks should have overflow pipes to convey excess water to waste. Surge tanks shall be provided with means for complete draining.
- b. *Skimmers.* The use of skimmers shall be limited to pools with widths of 30 feet or less.
1. *Number.* At least one surface skimmer shall be provided for each 500 square feet of surface or fraction thereof. Additional skimmers may be required to achieve effective skimming. At least two skimmers should be provided.
 2. *Location.* Skimmers shall be so located as to provide effective skimming of the entire water surface with minimum interference and short-circuiting.
 3. *Flow rate.* Skimmers shall be designed for a flow-through rate of at least 30 gallons per minute or 3.75 gallons per minute per lineal inch of weir. The combined capacity of all skimmers in a pool shall be less than the total recirculation rate.
 4. *Control.* Skimmers shall have weirs that adjust automatically and operate freely and continuously with variations of at least four inches in water level. All skimmed water shall pass through an easily removable and cleanable basket or screen before encountering control valves or entering the pump suction line. Each skimmer shall be equipped with a device to control flow. If a skimmer is connected directly to the recirculation pump suction pipe, it should include a device to prevent an air lock in the suction line. If equalizer pipes are used, they shall pass an adequate amount of water to meet pump suction requirements should the water in the pool drop below the weir level. The equalizer pipes shall be located at least one foot below the lowest overflow level of the skimmer. A valve or equivalent device that will remain tightly closed under normal operating conditions, but automatically opens when the water level drops below the minimum

- operating level of the skimmer, shall be provided on each equalizer pipe.
5. *Construction.* Skimmers shall be installed in the pool walls, be sturdy and be constructed of corrosion-resistant materials. Surface skimmers shall be of a type acceptable to the health department.
 6. *Handgrips.* Bullnosed coping not more than two inches thick or other handgrip adjacent to the pool wall shall be provided. The handgrip shall not be more than nine inches above the minimum skimmer operating level. When the handgrip is formed by the pool deck, it shall slope away from the pool with a one-inch drop in a one foot distance.
 - c. *Testing.* Flotation testing should be performed to determine and adjust the recirculation system for optimum skimming.
- (4) *Main drain system (outlet).* Main drains of the pool shall be installed in the pool floor at the deepest point.
- a. *Single main drain.* Must be equipped with an unblockable drain that meets the ASME/ANSI A112.19.8 standard or anti-entrapment covers certified to meet the ASME/ANSI A112.19.8 standard and one of the following:
 1. Safety vacuum release system (SVRS);
 2. Suction-limiting vent system;
 3. Gravity drainage system;
 4. Automatic pump shut-off system;
 5. Drain disablement;
 6. Other systems as determined by the consumer product safety commission to be equally as effective or better than described in subsection (4)a.1 through 5 of this section.
 - b. *Spacing.* If dual or multiple main drains, the drains shall not be greater than 20 feet on centers and an outlet shall be provided not more than 15 feet from each side wall and at least three feet apart.
 - c. *Gratings.* The main drains shall be protected by anti-entrapment covers that are certified to meet the ANSI/ASME A1 12.19.8 standard on every drain/grate. Gratings or drain covers shall not be removable without the use of tools.
 - d. *Piping.* The piping shall be designed to carry 100 percent of the recirculation rate and shall be equipped with a valve.
 - e. *Minimum flow.* At least 30 percent of the total recirculation rate should flow through the main drain.
- (5) *Pumps and strainers.*
- a. *Strainers.* Strainers shall be provided through which all water shall pass before entering the pump. The strainers shall be of rigid construction, fabricated of corrosion resistant material and sufficiently strong to prevent collapsing when clogged. The openings shall be no greater than one-eighth inch in any dimension. The total clear area of all openings shall be at least four times the area of the connecting pipe. The strainer shall have a quick opening cover. Spare strainer baskets shall be provided. In systems where the filter is located on the suction side of the pump, strainers are not required.
 - b. *Pumping equipment.* The recirculation pump shall have adequate capacity to meet the design requirements of the pool, including filter backwashing. It shall be of a self-priming type if installed above the hydraulic gradient. Multiple pumps

should not be provided except for standby purposes. A gauge which indicates both pressure and vacuum shall be installed on the pump suction header and a pressure gauge shall be installed on the discharge side of the pump.

(6) *Flow measurement and control.*

- a. *Flow measurement.* A means of continuously measuring rate of flow shall be provided in the recirculation system. For sand filters the flow measuring equipment shall be located where the backwash flow rate can also be determined. The rate of flow indicator shall be of a type approved by the health department. The indicator shall be capable of measuring at least 1.5 times the design flow rate, and shall be accurate within ten percent of true flow. The indicator shall have a range of readings appropriate for the anticipated flow rates, and be installed where it is readily accessible for reading and maintenance and with straight pipe upstream and downstream of any fitting or restriction in accordance with the manufacturer's recommendation.
- b. *Flow regulation.* A device for regulating the rate of flow shall be provided in the recirculation pump discharge piping.

(7) *Inlets.* The recirculation system shall have inlets adequate in design, number and location to insure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool. All other types of inlet systems not covered in this subsection shall be subject to approval by the health department.

- a. *Number.* Wall inlets shall be spaced not over 20 feet apart, with one inlet within five feet of each corner of the pool and one in each recessed step area.

- b. *Location.* Wall inlets shall be located at least 12 inches below the design water surface. Bottom inlets shall be uniformly spaced with a separating distance of no greater than 20 feet and with rows of inlets within 15 feet of each side wall. In any pool over 60 feet in width, bottom inlets should be provided.
- c. *Type.* Inlet fittings shall be of the adjustable rate of flow type. Directional flow inlets shall be used with skimmer type pools. Inlets shall not extend from the floor or wall to create a hazard.
- d. *Testing.* Dye testing (crystal violet or equivalent) should be performed to determine and adjust the recirculation pattern.

(Code 1996, § 260.070; Code 2005, § 46-128; Ord. No. 2009-011, § 1, 2-24-2009; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-102. Filtration.

A swimming pool water treatment system shall have one or more filters. A filter shall be of a type approved by the health department. It shall be installed with adequate clearance and facilities for ready and safe inspection, maintenance, disassembly and repair.

(1) *Sand type filters.*

- a. *Filter rate.* The design filtration rate of rapid sand filters shall not exceed three gallons per minute per square foot of filter area. High-rate sand filters shall not exceed a filtration rate of 15 gallons per minute per square foot. The sand filter system shall be equipped to backwash each filter at a rate of 15 gallons per minute per square foot of filter bed area or as recommended by the manufacturer. The backwash water shall be discharged to waste through a suitable air gap.

- b. *Filter media.* Sand or other media shall be carefully graded and meet the manufacturer's recommendation for pool use.
 - c. *Accessories.* Accessories shall include influent pressure gauge, effluent pressure gauge, backwash sight glass and air relief valve.
- (2) *Diatomaceous earth.* The design filtration rate for pressure or vacuum filters shall be not greater than 1.5 gallons per minute per square foot of effective filter area, except that a maximum filtration rate of 2.0 gallons per minute per square foot may be allowed where continuous body feed is provided.
- a. *Precoating.* The filter piping shall be designed to refilter or waste the effluent until a uniform body coat is applied. For pressure type filters, precoat feed equipment shall be provided to apply not less than 0.1 pound of diatomaceous earth per square foot of filter area.
 - b. *Body feed equipment.* Body feed equipment capable of applying not less than 0.1 pound of diatomaceous earth per square foot of filter area per 24 hours should be provided.
 - c. *Regenerative type filters.* Regenerative type filters shall meet the same standards as other pressure filters. Bumping by air or manual means must be provided for and provision for inspection of elements shall be provided.
 - d. *Accessories.* Accessories for vacuum filters shall include a vacuum gauge and a vacuum limit switch interconnected with the pump. Pressure filters require a backwash sight glass, effluent pressure gauge, influent pressure gauge and air relief valve.

- (3) *Other type filters.* Acceptance shall be determined on an individual basis by the health department.
(Code 1996, § 260.080; Code 2005, § 46-129; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-103. Disinfection.

Swimming pools shall be designed to provide for continuous disinfection of the pool water with a chemical which is an effective disinfectant and which imparts an easily measured, active residual.

- (1) *Disinfectant feeders.* An automatic feeder which is easily adjustable shall be provided for the continuous application of disinfectant.
 - a. *Construction.* Feeders shall be of sturdy construction and materials which will withstand wear, corrosion or attack by disinfectant solutions or vapors, and which are not adversely affected by repeated, regular adjustments or other normal use conditions.
 - b. *Maintenance.* Feeders shall be capable of being easily disassembled for cleaning and maintenance.
 - c. *Operation.* The design and construction shall be such as to minimize stoppage from chemicals intended to be used or foreign materials that may be contained therein.
 - d. *Safeguards.* The feeders shall incorporate antisiphon safeguards so that the disinfectant cannot continue to feed into the swimming pool, the pool piping system, or the swimming pool enclosure if any type of failure of the pool equipment occurs.
 - e. *Capacity.* Feeders shall be capable of supplying disinfectant to the pool in the range up to ten ppm chlorine or equivalent.
- (2) *Gas chlorination.* When compressed chlorine gas is used, the following features shall be provided:
 - a. *Location.* The chlorinator room shall be located on the opposite side of the pool from the direction of the prevailing winds.

- b. *Chlorine room.* This room shall be at or above grade. Chlorinating equipment shall be in a separate room.
 - c. *Venting.* The chlorine room shall have an airtight duct beginning near the floor and terminating at a safe point of discharge to the out-of-doors. A louvered air intake shall be provided near the ceiling. A ventilating fan, capable of one air change per minute and operated from a switch outside the door, shall be provided in conjunction with the airtight duct.
 - d. *Lighting.* Adequate lighting shall be provided with the switch located outside the room, adjacent to the door.
 - e. *Door.* The door of the chlorinator room shall not open to the swimming pool, and shall open outward to the out-of-doors. The door shall be provided with a shatterproof inspection window and should be provided with panic hardware.
 - f. *Chlorine cylinders.* Chlorine cylinders shall be anchored. The cylinders in use shall stand on a scale capable of indicating gross weight with one-half pound accuracy. Storage space shall be provided so that chlorine cylinders are not subjected to direct sunlight.
 - g. *Injection location.* The mixing of the chlorine gas and water shall occur in the chlorine room, except where vacuum type chlorinators are used.
 - h. *Backflow.* The chlorinators shall be designed to prevent the backflow of water or moisture into the chlorine gas cylinder.
 - i. *Breathing apparatus.* A self-contained breathing apparatus designed for use in a chlorine atmosphere, and of a type approved by the health department, shall be provided. A closed cabinet shall be provided to house the breathing apparatus. It shall be accessible without a key and be located outside of the chlorinator room.
- j. *Leak detection.* A plastic bottle of ammonia for leak detection shall be provided.
 - k. *pH adjustment.* Mechanical feed equipment for the purpose of adding a chemical for pH adjustment shall be provided.
- (3) *Hypochlorinators.* Where hypochlorinators are used, the following requirements shall apply:
 - a. *Feed.* Feed shall be continuous under all conditions of pressure in the recirculation system without constriction of the recirculation pump suction.
 - b. *Solution tanks.* If calcium hypochlorite is used, two solution tanks, each with minimum capacity of one-day supply, should be provided.
 - (4) *Chemical feed equipment.* Equipment and piping used to apply chemicals to the water shall be of such size, design and material that they may be cleaned. All material used for such equipment and piping shall be resistant to action of chemicals to be used therein.
 - (5) *Test kit.*
 - a. *Standards.* Every pool shall be equipped with a DPD (Diethyl-P-Phenylene Diamine) test kit to measure free and combined chlorine or bromine concentrations, total chlorine, pH, alkalinity, and cyanuric acid, if used. The DPD test kit shall be capable of measuring the minimum and maximum allowable ranges for chemical operation parameters. Reagents within the DPD test kit shall be date marked with the date of purchase and held according to the manufacturer's

guidelines. The use of orthotolidine (OTO) test kits and test strips is prohibited.

(Code 1996, § 260.090; Code 2005, § 46-130; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-104. Bathhouse.

(a) *Exceptions.* Omission of part or all of the poolside shower and toilet facilities may be approved by the county health department when adequate facilities are conveniently available.

(b) *Design criteria.*

- (1) *Bathhouse routing.* Unless approved as in subsection (a) of this section, location of the bathhouse shall be such that the patrons must pass through the bathhouse to enter the pool. The layout of the bathhouse shall be such that the patrons on leaving the dressing room pass the toilets, then the showers, en route to the swimming pool.
- (2) *Bathhouse design.* The floor of the bathhouse shall be of smooth-finished material with nonslip surfaces, impervious to moisture, easily cleanable and sloped at least one-fourth inch per foot to drains. Carpeting shall not be permitted in shower and toilet areas. Junctions between walls and floors shall be coved. Walls and partitions shall be of smooth, impervious materials, free from cracks or open joints. Partitions between dressing cubicles shall terminate at least ten inches above the floor or shall be placed on continuous raised masonry or concrete bases at least four inches high. Lockers shall be set either on solid masonry or concrete bases at least four inches high or on legs with the bottom of the locker at least ten inches above the floor. Lockers shall be properly vented.
- (3) *Fixture requirements.*
 - a. *Generally.* Unless exempted by subsection (a) of this section, bathhouse facilities shall be provided

based on maximum patron load according to the table set out in section 46-135.

- b. *Showers.* Showers shall be supplied with water at a temperature of at least 90 degrees Fahrenheit and no more than 115 degrees Fahrenheit and at a rate of at least 1.5 gallons per minute per shower head. All plumbing shall conform to national and local plumbing codes. Liquid or powdered soap dispensers should be provided. Glass dispensers are not acceptable.

- (4) *Suits and towels.* Where towels and/or swimming suits are provided, facilities shall be provided to adequately launder, store and sanitize these items after each usage.
- (5) *Footbaths.* The use of footbaths is prohibited.
- (6) *Hose bibs.* Hose bibs shall be provided within the bathhouse to enable the entire area to be flushed with a 50-foot hose. All hose bibs shall be provided with approved backsiphonage devices to protect the water distribution system for the pool and appurtenant facilities at all times against cross connection.
- (7) *Ventilation.* Bathhouse facilities shall be provided with mechanical ventilation in accordance with current codes.
- (8) *Electrical receptacles.* All bathhouse electrical outlets shall be protected by ground fault circuit interrupters.

(Code 1996, § 260.100; Code 2005, § 46-131; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-105. Miscellaneous requirements.

- (a) *Pool cleaning system.* A cleaning system shall be provided to remove dirt from the bottom of the pool. When a vacuum system is used as an integral part of the recirculation system, the connection shall be located in the walls of the swimming pool at least eight inches below the water line, and at such points that the floor of

the pool can be cleaned with not more than 50 feet of suction hose. Nothing in this section shall prohibit the use of surface skimmers for vacuum cleaning purposes.

(b) *Manual.* A manual for operation of the pool shall be provided. It shall include instructions for each filter, pump or other piece of equipment, drawings, illustrations, chart operating instructions, and a parts list to permit proper installation, operation, winterization and maintenance.

(c) *Starting blocks.* Starting blocks shall be located where the water depth is at least five feet. They shall be of a removable design.

(d) *Sand area rinse showers.* Sand areas shall not be allowed inside of the pool enclosure unless separated by an effective barrier to control access to the swimming pool deck and provided with continuous supervision to enforce the showering requirement. Persons entering the swimming pool area from the sand area shall pass through a water spray or shower which effectively removes sand from the bathers.

(e) *Spray and water features.* Waterfalls, fountains, mushrooms, spray pads and spray pools, or similar features shall be permitted only in water depths not exceeding two feet. Such features shall be of a nonclimbable design, unless specifically manufactured and marketed as a climbing structure. Each feature where bathing takes place shall have a separate sanitizing feeder installed. The feeder shall be of appropriate design with one chlorinator per activity flow pipe, and be capable of supplying sufficient sanitizing to meet the minimum residual required by these regulations. Turnover shall be no greater than every 15 minutes. If the features are part of a larger system that uses surge tanks with chemical controllers, and there are separate feed lines to each feature, then separate chlorinators are not required as long as the chlorine residual is maintained at each feature.

(Code 1996, § 260.110; Code 2005, § 46-132; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-106. Spas.

(a) *General standards.* Requirements for conventional swimming pools may be modified or waived for spas at the discretion of the health official. Except as modified by this article, compliance is required with all other applicable sections and standards of this Code.

(b) *Patron load.* The patron load shall not exceed one person per three lineal feet of inner edge of seat or bench.

(c) *Maximum depths.* The maximum water depth shall be four feet measured from the water line. The maximum depth of any seat or sitting bench shall be two feet measured from the water line.

(d) *Handholds.* A spa shall have one or more suitable, slip-resistant handholds around the perimeter, located no farther apart than four feet. The handholds may consist of any one or a combination of bullnosed coping, ledges or decks along the immediate top edge of the spa and not over 12 feet above the water line; ladders, steps, or seat ledges; and ropes or railings not over 12 inches above the water line.

(e) *Stairs, ladders and recessed treads.* Stairs, ladders, or recessed treads shall be provided where spa depths are greater than two feet. A spa shall be equipped with at least one means of egress with handrail for each 50 feet of perimeter or portion thereof.

(f) *Deck width.* A five-foot minimum width continuous unobstructed deck, which may include the coping, shall be provided on two sides or 50 percent or more of the spa. When the spa is adjacent to another pool, the spa shall be located at the shallow end, with a minimum distance of five feet between the pools.

(g) *Water temperature controls.* Controls shall be provided to prevent water temperatures in excess of 104 degrees Fahrenheit. The controls shall be accessible only to the pool operator. Each spa shall have an approved spa thermometer on site.

(h) *Electrical equipment.* Electrical switches, outlets, and equipment shall be at least 15 feet from the edge of the spa.

(i) *Spa drainage.* A means to drain the spa shall be provided to allow frequent draining and cleaning.

(j) *Entrapment protection.* Outlets shall be designed so that each pumping system prevents patron entrapment. Acceptable means include the use of unblockable drains that meet the ASME/ANSI A112.19.8 or a certified ASME/ANSI A112.19.8 drain cover on every drain/grate, and one of the following:

- (1) Safety vacuum release system (SVRS);
- (2) Suction-limiting vent system;
- (3) Gravity drainage system;
- (4) Automatic pump shut-off system;
- (5) Drain disablement;
- (6) Other systems as determined by the consumer product safety commission to be equally as effective or better than described in subsection (k)(1) through (5) of this section, if a single main drain.

(k) *Surface skimmers.* One surface skimmer shall be provided for each 100 square feet or major fraction thereof of surface area.

(l) *Inlets.* One wall inlet shall be provided for each 20 feet of pool perimeter, and a minimum of two wall inlets shall be provided.

(m) *Air induction systems.* An air induction system, when provided, shall prevent water backup that could cause electrical shock hazards. Air intake sources shall not permit the introduction of toxic fumes or other contaminants.

(n) *Disinfectant feeders.*

- (1) *Capacity.* Feeders shall be capable of supplying at least 20 ppm chlorine or equivalent.
- (2) *Gas chlorinators.* Gas chlorinators shall not be used.

(o) *Recirculation flow rates.* The recirculation flow rate shall be 30 gallons per minute per skimmer or provide a 30-minute turnover, whichever is greater.

(p) *Agitation systems.* The agitation system shall be separate from the water treatment recirculation system. The agitation system shall be connected to a ten-minute timer located out of reach of a person in the spa.

(q) *Caution signs.* A legible sign visible from the spa shall be provided. It shall state: "Caution. Any person having an acute or chronic disease such that use of the spa might adversely affect their health should consult a physician before using this spa. Do not use the spa immediately following exercise or while under the influence of alcohol. Do not use the spa alone or without supervision. Do not use the spa longer than ten minutes. Children shall be accompanied by an adult."

(Code 1996, § 260.120; Code 2005, § 46-133; Ord. No. 2009-011, § 1, 2-24-2009; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-107. Water slides.

(a) *General standards.* Water slides require special consultation with the regulatory agency for consideration of design variations and areas where potential problems may exist. Requirements for conventional swimming pools may be modified or waived for water slides at the discretion of the health department. Except as modified by this article, compliance is required with all other applicable sections and standards of this Code.

(b) *Flumes.*

- (1) *Position.* A flume shall be perpendicular to the plunge pool wall for a distance of at least ten feet from the exit end of the flume.
- (2) *Clearances.* The distance between the side of a flume terminus and a plunge pool side wall shall be at least four feet. The distance between sides of adjacent flume terminuses shall be at least six feet. The distance between a flume exit end and the opposite side of the plunge pool, excluding steps, shall be at least 20 feet.

- (3) *Elevation.* A flume shall terminate either at a depth of at least six inches below the plunge pool operating water surface level or at, or no more than two inches above, the water surface level provided the flume is level for a distance of at least ten feet from its exit end.
- (c) *Plunge pools.*
- (1) *Depths.* The plunge pool operating water depth at the end of a flume shall be three feet. This depth shall be maintained in front of the flume for a distance of at least ten feet, from which the plunge pool floor may have a constant slope upward to a minimum water depth of two feet.
- (2) *Decks.*
- a. *Width.* The deck along the exit side of the plunge pool shall be at least ten feet wide. The deck along the side opposite the pump reservoir shall be at least four feet wide.
- b. *Slope.* Plunge pool decks may slope to the plunge pool and/or the pump reservoir or to drains which discharge to them.
- (d) *Pump reservoirs.*
- (1) *Volume.* The pump reservoir shall have sufficient volume to contain two minutes of combined flow from all water treatment and flume pumps.
- (2) *Accessibility.* All of the reservoir area shall be accessible by three-foot minimum width decks for cleaning and maintenance.
- (3) *Security.* The pump reservoir shall be secured to prevent unauthorized access.
- (4) *Flume pumps.*
- a. *Intakes.* The flume pump intakes shall be in the pump reservoir. The intakes shall enable cleaning and shall prevent patron entrapment.
- b. *Checkvalves.* Each flume pump discharge pipe shall have a check-valve.
- (e) *Walkways.* A four-foot minimum width surfaced walkway or steps shall be provided between the plunge pool deck and the top of the flume.
- (f) *Water treatment.*
- (1) *Main drains.* The plunge pool and the pump reservoir shall each have a main drain with piping to the water treatment system with unblockable drains or anti-entrapment covers that are certified to meet the ASME/ANSI A112.19.8 standard and one of the following:
- a. Safety vacuum release system (SVRS);
b. Suction-limiting vent system;
c. Gravity drainage system;
d. Automatic pump shut-off system;
e. Drain disablement;
f. Other systems as determined by the consumer product safety commission to be equally as effective or better than described in a. through e., if a single main drain.
- (2) *Overflow systems.* The plunge pool and the pump reservoir shall each have either a surface skimmer system or a perimeter overflow system, with piping to the water treatment system.
- a. *Surface skimmers.* Each surface skimmer system shall have at least two surface skimmers.
- b. *Perimeter overflow systems.* Perimeter overflows are not required directly under flumes or along weirs which separate the plunge pool and the pump reservoir.
- (3) *Turnover.* The water shall be recirculated and treated in a turnover of one hour or less.
- (g) *Caution signs.* A legible sign shall be posted at the top of the flume. The sign shall state: "Do not use this slide while under the influence of alcohol or drugs. Only one person allowed at a time. Follow the instructions of the supervisor and lifeguard. No running, standing,

kneeling, rotating, tumbling or stopping in the flumes or tunnels. Keep your hands inside the flume. No diving from a flume. Leave the plunge pool promptly after entering it."

(Code 1996, § 260.130; Code 2005, § 46-134; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-109. Wave pools.

(a) *Consultation with health department; applicability of requirements for conventional pools.* The design architect or engineer shall consult with the health department prior to preparation and submission of engineering plans and specifications for wave pools. Requirements for conventional swimming pools may be modified or waived for wave pools at the discretion of the health department. Except as modified by this section, compliance is required with all other applicable sections of these standards.

(b) *Shape and design generally.* Wave pools shall be of such shape and design as to be operated and maintained in a safe and sanitary manner.

(c) *Depth.* The water depth may be reduced to zero at the shallow end to allow for safe access and for dissipation of the waves.

(d) *Gutters.* Overflow gutters shall be provided, but may be omitted along the side of the pool with the wave generating equipment if effective skimming devices are provided instead. Continuous skimming shall be provided during the quiescent period over the entire length of the gutter. The zero-depth end shall have a continuous trench with a grate.

(e) *Recirculation-filtration system.* The recirculation-filtration system of wave pools shall be capable of providing a two-hour turnover.

(f) *Decks and ladders.*

(1) *Barriers.* A safety railing or other effective barrier at least 42 inches in height shall be provided to prevent swimmers from entering the pool at any location other than the zero-water-depth end. It shall have at least one intermediate-height rail or rope.

- (2) *Runout.* Runout areas sloping down toward the zero-depth trench should not exceed four feet.
- (3) *Access.* Deck areas accessible to swimmers may be omitted along the side of the pool with the wave generating equipment.
- (4) *Ladders.* Ladders shall be of a recessed design.
- (g) *Waves.*
- (1) *Magnitude.* The wave generating equipment shall not be capable of producing waves of a magnitude which could cause swimmers to have contact with the pool bottom in the deep end.
- (2) *Emergency shutoff.* An emergency shutoff for the wave generating equipment shall be provided at every lifeguard chair or station at a minimum. At least four emergency shutoffs shall be provided.
- (h) *Openings.*
- (1) *Inlets.* The zero-depth area shall have bottom inlets. They shall be located as required by the health department.
- (2) *Openings to wave generating equipment.* Openings to wave generating equipment shall be designed to prevent entrapment of swimmers.

(Code 1996, § 260.140; Code 2005, § 46-135; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Sec. 46-109. Zero-depth pools.

(a) *Generally.* This section applies to zero-depth pools other than wading pools. Except as modified by this section, zero-depth pool facilities must comply with all other applicable provisions of these standards.

(b) *Lifeguarding requirement.* Zero-depth pools are permitted only where continuous lifeguard service is provided.

(c) *Surface skimming.* A gutter or trench with a grate cover is required along all zero-depth areas. It shall be at an elevation which allows effective skimming at the trench at all times.

(d) *Runout.* Runout areas sloping toward the zero-depth trench should not exceed four feet.

(e) *Recirculation rate.* The recirculation rate shall provide a turnover of two hours or less for areas of less than three feet of water depth, and a turnover for other areas as specified elsewhere in these standards.

(f) *Bottom inlets.* A system of bottom inlets must be provided in the shallow end, designed to provide the equivalent of a two-hour turnover for that area.

(Code 2005, § 46-136; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—See editor's note to art. V.

Secs. 46-110—46-126. Reserved.

DIVISION 2. OPERATIONAL STANDARDS

Sec. 46-127. Water quality standards.

(a) *Disinfection.* Swimming pool water shall be continuously disinfected. The disinfecting materials and methods shall not be dangerous to public health, create objectionable physiological effects, or impart toxic properties to the water. All disinfecting materials and methods shall be used only with the approval of the health department.

(1) *Chlorine.* When chlorine is the disinfectant, a free chlorine residual of at least 1.0 mg/l shall be maintained throughout the pool. The free chlorine residual shall not exceed 10 mg/l.

(2) *Bromine.* When bromine is the disinfectant, a residual of at least 3.0 mg/l shall be maintained throughout the pool. The residual shall not exceed 10 mg/l.

(3) *Other disinfectants.* Another disinfecting material or method may be used when it has been demonstrated to provide a satisfactory residual which is easily measured and is as effective under conditions of use as the chlorine concentrations required in this section.

(b) *pH and alkalinity.*

(1) *pH.* The swimming pool water pH shall be maintained at a level between 7.2 and 8.2.

(2) *Alkalinity.* The alkalinity of the water should be maintained at a level between 60 and 180 mg/l as calcium carbonate.

(c) *Clarity.* The water shall have sufficient clarity that a black and white disc, six inches in diameter, is readily visible when placed at the deepest point of the swimming pool and viewed from the side of the swimming pool. A black two-inch circle around the drain cover or a highly contrasting drain cover suffices.

(d) *Algae control.* An algaecide may be used provided it is acceptable to the health department and is used in accordance with the directions on the label.

(e) *Superchlorination.* If the concentration of combined residual chlorine is greater than 0.2 mg/l, the swimming pool water should be superchlorinated to reduce the concentration of combined residual chlorine to less than 0.2 mg/l. Swimmers shall not be allowed in the swimming pool during superchlorination. Swimmers may be allowed in the pool when the free chlorine residual is between 1 mg/l and 10 mg/l.

(f) *Temperature.* The pool water temperature should be maintained between 72 degrees Fahrenheit and 85 degrees Fahrenheit.

(Code 1996, § 260.150; Code 2005, § 46-161; Ord. No. 2009-011, § 1, 2-24-2009; Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-128. Routine operations.

(a) *Pool cleaning.* The swimming pool and deck areas shall be cleaned, the pool water surface skimmed, and the pool walls and bottom vacuumed or brushed, all on a daily basis and while the pool is closed from use.

(b) *Bather preparation facilities.* The bather preparation facilities, including the floors, showers, and toilet facilities, shall be cleaned and disinfected daily and while the pool is closed

from use. Public lockers shall be inspected and be cleaned as necessary. All facilities shall be maintained in an operable condition.

(c) *Water analyses.* Water quality analyses shall be performed at a frequency and at such locations as established by the health department. Test kits shall be properly maintained. Reagents shall be renewed semi-annually for indoor pools and prior to opening for outdoor pools.

(d) *Mechanical system.* All items of mechanical equipment and all parts of the mechanical system shall be inspected daily.

(e) *Recirculation system.* The recirculation system shall be inspected daily.

- (1) *Overflow system.* Surface skimmers and perimeter overflow systems shall be cleaned daily and shall be adjusted as necessary.
- (2) *Main drains.* Broken main drain grates shall be repaired or replaced immediately.
- (3) *Inlets.* Inlet flow rates and direction shall be checked and shall be adjusted as necessary.
- (4) *Surge tanks.* Surge tank controls shall be adjusted as necessary for operation in the design range of water levels. Surge tanks shall be drained and cleaned at least annually.
- (5) *Water level.* Water shall be added as needed to keep the pool water at the overflow level.

(f) *Other equipment.* All safety equipment, deck equipment, and signs shall be checked daily and shall be properly maintained.

(g) *Records.* Daily operating records shall be maintained by the owner or operator on forms furnished by the health department. The records should contain such information as disinfectant residual, pH, water temperature, amount of chemicals used, flow rate, filter backwashing, equipment breakdowns, amount of makeup water, number of patrons, breathing apparatus usage, and personal accidents. Unusual problems or occurrences should be reported immediately to

the health department. Changes made to meet the ASME/ANSI A112.19.8 standards shall be documented with information sheets of anti-entrapment drain covers and systems installed with drawings of any recirculation changes. These documents shall be available on-site and provided to the health department.

(h) *Chemicals.* All chemicals shall be handled and stored properly in accordance with the manufacturer's recommendations.

(Code 1996, § 260.160; Code 2005, § 46-162; Ord. No. 2009-011, § 1, 2-24-2009)

Sec. 46-129. Equipment maintenance.(a) *Equipment operation.*

- (1) *Instructions.* All equipment shall be operated and maintained in accordance with the manufacturer's instructions. A manual of operation provided by the consultant and manufacturer's instructions for operation and maintenance of the equipment shall be maintained and kept available. When such instructions are not available, the health department should be contacted for advice and consultation.
- (2) *Continuous operation required.* Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the pool water recirculation system shall be kept in continuous operation, 24 hours per day.

(b) *Recirculation pumps.* The pump and motor shall be checked at regular intervals. The pump shall not be throttled on the suction side during normal operation.

(c) *Filters.*(1) *Sand filters.*

- a. *Air release.* The filter air release valve shall be opened daily, or more frequently if necessary, to remove air which collects in the filter.
- b. *Backwashing.* Filters shall be backwashed at a proper flow rate in accordance with the manufacturer's recommendations. The loss of head at the time of backwashing gravity filters shall not exceed eight feet. The pressure differential at the time of backwashing standard rate sand filters should not exceed five pounds per square inch and shall not exceed seven pounds per square inch.
- c. *Internal components.* Inspection of the internal components of pressure filters shall be conducted annually or at any time the filters fail to produce clear effluent. Deficiencies shall be corrected.

(2) *Diatomaceous earth filters.*

- a. *Precoat amount.* The amount of diatomaceous earth precoat shall be at least 0.1 pound per square foot of element surface area.
- b. *Precoat operation.* During precoating, the filter effluent shall be recirculated through the filter until the effluent is clear, or the initial filter effluent shall be discharged to waste until clear water is produced.
- c. *Body feed.* When continuous body feed is issued, it should be applied at a rate of 0.5 to 1.5 ounces per square foot of surface area per day or as needed to extend filter cycles.
- d. *Backwashing.* Pressure filters shall be backwashed when the pressure differential between the filter influent and effluent lines reaches the manufacturer's recommended maximum pressure differential, or when the rate of flow drops below the design flow rate, whichever occurs earlier. When the recirculation pump stops or is shut off, the filter shall be backwashed. The elements shall be precoated before placing the pump back into operation. Vacuum filters shall be washed when the pump suction gauge reaches the manufacturer's recommended maximum vacuum, or the flow rate drops below the design flow rate, whichever occurs first.
- e. *Internal components.* A pressure filter shall be opened for inspection at least once a year, and whenever it fails to produce a clear effluent. Deficiencies shall be corrected.
- f. *Extra supplies.* An extra supply of septa and at least two weeks' supply of diatomaceous earth should be available.
- (d) *Strainers.* Strainer baskets shall be removed and replaced by clean baskets frequently. The pump shall be stopped before a strainer is

opened. In the case of a diatomaceous earth filter, the dirty strainer basket should be replaced with a clean one when the filter is backwashed.

(e) *Valves.* Valves shall be operated through their entire operation range occasionally to prevent corrosion and dirt from sealing them. Valve stem packing glands shall be tightened or repacked as necessary to prevent leakage.

(f) *Flow meters.* Flow meters shall be maintained in an accurate operating condition. The glass and the connecting tubes shall be kept clean.

(g) *Gauges.* The lines leading to gauges shall be bled occasionally to prevent blockage.

(h) *Positive displacement feeders.*

(1) *Inspection.* Positive displacement feeders shall be periodically inspected and serviced.

(2) *Intake.* The suction intake should be suspended at least six inches above any sludge layer in the solution tank.

(3) *Cleaning.* A small amount of mild acid solution (as vinegar) should be fed through the feeder each week to dissolve sludge accumulations.

(i) *Erosion feeders.*

(1) *Inspection.* Erosion feeders shall be periodically inspected and serviced.

(2) *Chemicals.* Only chemicals recommended by the feeder manufacturer shall be used in the feeder.

(j) *Gas chlorinators.* Gas chlorinators shall be serviced or repaired only by qualified personnel.

(k) *Pool structure and decks.*

(1) *Cracks.* Cracks in the pool walls, floors, perimeter overflow systems and decks shall be repaired as soon as possible and prior to the pool cleaning.

(2) *Painting.* The pool walls, floor, and deck equipment shall be painted as often as necessary to keep them in good condition and free of corrosion. Paint for the pool structure shall be white or a light color.

Steps which lead into a pool should be painted to contrast with the rest of the pool.

- (3) *Electrical systems.*
- (4) *Repairs to be made by qualified electrician.* Repairs to any electrical system shall be made only by a qualified electrician.
- (5) *Lights.* Defective underwater and overhead lights, including their lenses, shall be immediately repaired or replaced.
- (6) *Code requirements.* All repairs shall be made in strict compliance with the National Electrical Code and all applicable state and local codes.

(Code 1996, § 260.170; Code 2005, § 46-163)

Sec. 46-130. Patrons, spectators and staff.

(a) *Patrons.*

- (1) *Disease.* A person having an infectious or communicable disease shall not be permitted in a swimming pool.
- (2) *Showers.* A person using a swimming pool shall shower before entering the pool enclosure. A person leaving the pool to use a toilet shall shower before returning to the pool.
- (3) *Apparel.* Only clean apparel shall be worn in a swimming pool.

(b) *Patron load limit.* The number of patrons within the swimming pool enclosure shall not exceed the approved design capacity.

(c) *Spectators.*

- (1) *Street clothes.* A person in street clothes or shoes shall not be permitted on the swimming pool deck.
- (2) *Food and drink.* No food, drink, gum, tobacco, or glass shall be permitted at the pool deck or in the pool/spa.

(d) *Staff.*

- (1) *Supervisor.* Every pool shall be under the supervision of a responsible supervisor or lifeguard. This person shall require careful observance of sanitary and safety regulations.

- (2) *Lifeguards.*
- a. *Number.* All required lifeguard chairs/stations shall be occupied by lifeguards. Additional lifeguards shall be provided, the number to be determined by the health department, based on anticipated usage and design characteristics. A proposed lifeguard staffing plan for a swimming pool, spa, or water recreation attraction shall be submitted, in writing, to the health department for approval.
 - b. *Additional lifeguards.* At least one lifeguard shall be provided for swimming pools, spas, and recreational water attractions equal to or greater than 3,400 square feet of pool surface area. One additional lifeguard shall be provided for each additional 2,000 square feet of pool surface area thereafter. For pools with depths of five-foot or less, every other lifeguard requirement (additional 2,000 square feet) may be substituted with a trained attendant. Pool operators may limit the portions of the pool open to bathers and provide the required lifeguard staff consistent with the pool area open.
 - c. *Certification.* Each lifeguard shall have a valid and current advanced lifeguard certificate from the American National Red Cross, National YMCA or equivalent.
 - d. *Dress.* Each lifeguard on duty shall be appropriately dressed and identifiable.
 - e. *Attention.* A lifeguard on duty shall not engage in activities which would distract his attention from the lifeguard duties.
 - f. *First aid.* A person trained in first aid shall be available on the premises whenever the swimming pool is open for use. A person trained in cardiopulmonary resuscitation (CPR) also should be available.
 - g. *Operator.* A person knowledgeable in poolside testing of the water and in operating the water treatment equipment shall be available whenever the pool is open for use.
- (3) *Attendants.* A qualified attendant is required at regulated facilities with 2,000—3,400 square feet of surface area, regardless of pool depth. The pool shall have the attendant on duty at all times when the pool is open. If an attendant who is working alone must leave poolside, for whatever reason, he shall take whatever steps are necessary to ensure that no one remains in or enters the water in his absence. Copies of training/certification documentation for all attendants currently employed by the pool's management shall be present at the pool when it is open.
- a. *Qualifications.* No person shall serve as an attendant unless he meets all of the following training requirements and can produce the appropriate documentation upon request of the health department.
 - b. *CPR.* Current certification in American Red Cross, American Heart Association or NSC Cardiopulmonary Resuscitation (CPR), or approved equivalent that includes training in: one person adult CPR, child CPR and infant CPR.
 - c. *Airway.* Current certification in American Red Cross First Aid, or approved equivalent, that includes training in: obstructed airway, artificial breathing, control of bleeding, and treatment of shock.

(4) *Table of required lifeguard and attendants.*

	<i>2,000 sq. ft.</i>	<i>2,000—3,400 sq. ft.</i>	<i>3,400 sq. ft.</i>	<i>5,400 sq. ft. Depth 5 feet or less</i>	<i>5,400 sq. ft.</i>
Lifeguard	No	No	1	2 or 1 ¹	2
Attendant	No	1 or Poseidon	No	1	No
² Alarm or telephone	Yes (one year)	No	No	No	No
No lifeguard signage	Yes	Yes	No	No	No
First aid kit	Yes	Yes	Yes	Yes	Yes

¹ For pools five feet or less, every other lifeguard requirement (additional 2,000 square feet) may be substituted with a trained attendant.

² Pools, spas, or recreational water attractions that are not at all times in direct view of an attendant.

(Code 1996, § 260.180; Code 2005, § 46-164; Ord. No. 2006-013, § 1, 2-13-2006)

Sec. 46-131. Closure.

Any of the following conditions shall constitute sufficient grounds to order an immediate closure of the swimming pool, spa or water facility:

- (1) Failure to comply with the disinfectant residual levels established in section 46-127(a)(1) through (5).
- (2) Failure to comply with the water clarity requirement in 46-127(c).
- (3) Inoperable pump, filter, or disinfectant feeder.
- (4) Presence of bare electrical wires or other obvious electrical deficiency.
- (5) Absence of supervisor or required lifeguard.
- (6) Existence of any condition creating an immediate danger to health or safety as determined by the health department.
- (7) Absence of certified ASME/ANSI A112.19.8 anti-entrapment system and documentation of how standard is met.

(Code 1996, § 260.190; Code 2005, § 46-165; Ord. No. 2009-011, § 1, 2-24-2009)

Sec. 46-132. Safety.(a) *Accident prevention.*

- (1) *Decks.* Decks shall be kept slip-resistant and in good repair, without litter, obstructions, tripping hazards, and sharp edges.
- (2) *Deck equipment.* Ladders, handrails, diving apparatus, lifeguard chairs, slides, and other deck equipment shall be kept secured and in good repair, without sharp edges.
- (3) *Depth markings.* Depth markings shall be maintained to be plainly visible.
- (4) *Entrances.* Doors and gates at pool entrances shall be kept closed at all times and locked when the pool is not open for use.
- (5) *Glass objects.* Glass objects shall not be permitted in a swimming pool enclosure.
- (6) *Horseplay.* Horseplay and running shall not be permitted.

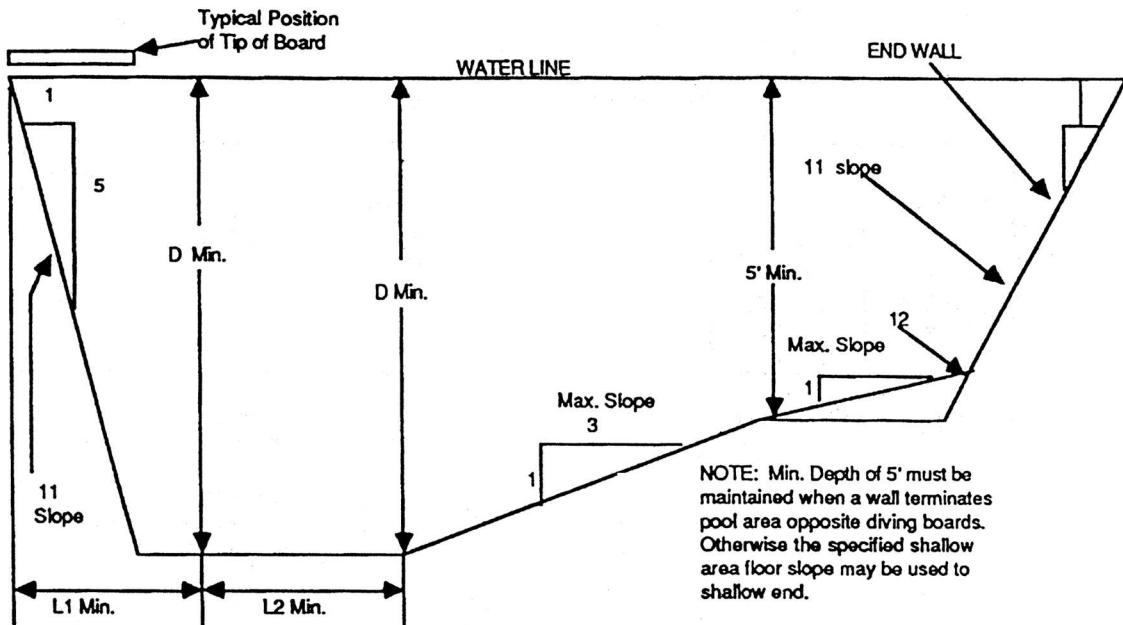
(b) *Safety equipment.*

- (1) *Lifesaving equipment.* The lifesaving equipment shall be kept in good repair and ready condition and in a conspicuous lo-

- cation. It shall be kept in its established location and shall be used only for the intended purpose.
- (2) *First aid equipment.* The first aid kit shall be kept locked and be readily available at a location identified at the pool. The spineboard shall be kept in good repair and ready condition at the swimming pool.
- (3) *Life lines.* Life lines separating shallow and deep areas shall be kept in good repair. They should be kept in place.
- (4) *Breathing apparatus.* Self-contained breathing apparatus shall be kept in good repair and in a ready condition.
- (5) *Anti-entrapment system.* Must be equipped with an unblockable drain that meets the ASME/ANSI A112.19.8 standard or anti-entrapment covers that are certified to meet the ASME/ANSI A112.19.8 standard and one of the following:
- a. Safety vacuum release system (SVRS);
 - b. Suction-limiting vent system;
 - c. Gravity drainage system;
 - d. Automatic pump shut-off system;
 - e. Drain disablement;
 - f. Other systems as determined by the consumer product safety commission to be equally as effective or better than described in subsection (b)(5)a through e of this section.
- (6) *Drain covers.* All swimming pool, spa, water slide, and water feature drains must be equipped with anti-entrapment covers or devices that comply with the ASME/ANSI A112.19.8 performance standard or any successor standard. Do not paint drain covers.
- (c) *Emergency plan.* A plan of action for emergencies should be prepared, put in writing, made known to the staff, and practiced.
- (d) *Single main drain.* Must be equipped with an unblockable drain that meets the ASME/ANSI A112.19.8 standard or anti-entrapment covers that are certified to meet the ASME/ANSI A112.19.8 standard and one of the following:
1. Safety vacuum release system (SVRS);
 2. Suction-limiting vent system;
 3. Gravity drainage system;
 4. Automatic pump shut-off system;
 5. Drain disablement;
 6. Other systems as determined by the consumer product safety commission to be equally as effective or better than described in subsection (d)(1) through (5) of this section.
- (Code 1996, § 260.200; Code 2005, § 46-166; Ord. No. 2009-011, § 1, 2-24-2009)
- Sec. 46-133. Pool rules.**
- (a) *Location and maintenance.* All pool use rules shall be located at conspicuous places and be legible.
- (b) *Contents.* The posted rules shall include: "Persons with infections not permitted. No food, drink, gum or tobacco permitted in pool or on deck. No containers made of glass or shatterable plastic. Shower before entering and after use of toilet facilities. No running or rough play. No pets allowed. Do not leave small or young children unattended."
- (c) *Additional rules.* Whenever additional rules are needed to protect the health and safety of patrons, the management shall post and enforce such rules.
- (d) *Warning signs.* Whenever the pool area is opened for use and no lifeguard service is required or provided, warning signs shall be placed in plain view to the entrances and inside the pool area which state "WARNING—NO LIFEGUARD ON DUTY" with clearly legible letters at least four inches high. Signage shall also indicate that children shall not use pool/spa without an adult in attendance.
- (Code 1996, § 260.210; Code 2005, § 46-167; Ord. No. 2006-013, § 1, 2-13-2006)

Sec. 46-134. Minimum dimensions for pools with diving equipment.

(a) Minimum dimensions for pools with diving equipment are as follows:



		Minimum Dimensions			
Maximum Board Height Over Water	Maximum Diving Board Length	D	L1	L2	Pool Width
26" ($\frac{2}{3}$ meter)	10'	8'6"	2'6"	10'0"	20'0"
30" ($\frac{3}{4}$ meter)	12'	9'0"	3'0"	10'0"	20'0"
1 meter	16'	10'0"	4'0"	12'0"	20'0"
3 meters	16'	12'0"	6'0"	12'0"	20'0"

(b) Placement of boards shall observe the following minimum dimensions. With multiple board installations, minimum pool widths must be increased accordingly.

1 meter or less board to pool side	10'0"
3 meters board to pool side	12'0"
Distance between adjacent boards	10'0"

(Code 1996, § 260.220; Code 2005, § 46-168)

Sec. 46-135. Fixtures required.

Fixtures required are as follows:

Patron Load	Fixtures Required* Male						Fixtures Required* Female			
	Toilets		Urinals		Lavatories	Showers	Toilets		Lavatories	Showers
	Dry	Wet	Dry	Wet			Dry	Wet		
0—50	1		1		1	1	1		1	1
51—100	1		1		1	2	2		1	1
101—150	1		2		1	2	3		1	2

Patron Load	Fixtures Required* Male							Fixtures Required* Female			
	Toilets		Urinals		Lavatories	Showers	Toilets		Lavatories	Showers	
	Dry	Wet	Dry	Wet			Dry	Wet			
151—200	1		2		1	2	3		1	2	
201—250	2		2		1	3	4		2	3	
251—300	1	1	1	2	2	4	2	3	2	4	
301—400	1	1	1	2	2	5	2	3	2	5	
401—500	1	2	1	2	2	6	2	4	2	6	
501— 1,000	1	2	1	3	2	7	2	5	2	7	
1,001— 1,500	1	3	2	3	2	10	3	6	2	10	
1,501— 2,000	2	3	2	4	2	15	4	7	2	15	
2,001 or more	2	4	3	4	3	20	5	8	3	20	

* For swimming pools at schools, camps or similar locations where patron loads may reach peaks due to schedules of use, the fixture schedules should be increased.

(Code 1996, § 260.230; Code 2005, § 46-169)

Secs. 46-136—46-154. Reserved.

ARTICLE VI. MASSAGE ESTABLISHMENTS*

Sec. 46-154. Reserved.

Editor's note—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, repealed § 46-154 which pertained to definitions and derived from the 1996 Code, § 620.010; the 2005 Code, § 46-191; and Ord. No. 2001-007, § 1, adopted Jan. 22, 2001.

Sec. 46-155. Enforcement.

The health official may, after a notice and opportunity for hearing, enforce reasonable orders not in conflict with, and to carry out, the intent of this article.

(Code 1996, § 620.150; Code 2005, § 46-192; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-156. License and permit required.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a

***Editor's note**—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, renumbered former art. V as art. VI.

State law reference—Massage therapy licensing and regulations, RSMo 324.420 et seq.

massage establishment, as defined in this Code, without first having obtained a license as a massage therapist from the state board of therapeutic massage, pursuant to RSMo ch. 324, and a massage establishment permit from the health official

(Code 1996, § 620.020; Code 2005, § 46-193; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, changed the title of § 46-156 from "State license, city health permit and city business license required" to read as herein set out.

Sec. 46-157. Application for permit.

The application for a massage establishment permit shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therein and the name and address of each applicant.

(Code 1996, § 620.030; Code 2005, § 46-194; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-158. Filing of copy of state license.

Any person, including an applicant for a massage establishment permit, who engages in the practice of massage therapy as defined in this

Code shall file a copy of the applicant's state license, issued by the state board of therapeutic massage, with the health official.

(Code 1996, § 620.040; Code 2005, § 46-195; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-159. Revocation or suspension of permit.

Any massage establishment permit may be revoked or suspended where it is found that any of the provisions of this article are violated or where the permittee, including a massage therapist, has been convicted of any violation of this article, or where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the city to inspect the premises or the operations therein.

(Code 1996, § 620.060; Code 2005, § 46-197; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, repealed former § 46-159 which pertained to issuance of permit; term; expiration, and derived from the 1996 Code, § 620.050; the 2005 Code, § 46-196; Ord. No. 2001-007, § 1, adopted Jan. 22, 2001; and Ord. No. 2001-021, § 2(A), adopted Feb. 26, 2001. Subsequently, section 2 of Ord. No. 2017-0187, amended and renumbered former § 46-160 as § 46-159.

Sec. 46-160. Required facilities.

(a) No permit to conduct a massage establishment shall be issued unless an inspection by the health official reveals that the establishment has complied with each of the following minimum requirements:

- (1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproof with approved waterproof materials.
- (2) Toilet facilities shall be provided in convenient locations. When five or more massage employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single restroom per sex shall be provided for each 20 or more massage employees or patrons of that

sex on the premises at any one time. Urinals may be substituted for toilets after one restroom has been provided.

(3) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.

(b) The health official shall certify that the proposed massage establishment complies with all of the requirements of this section.

(Code 1996, § 620.070; Code 2005, § 46-198; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Section 2 of Ord. No. 2017-0187, amended and renumbered former § 46-161 as § 46-160.

Sec. 46-161. Operating requirements.

(a) Every portion of a massage establishment, including appliances, apparatus, and personnel, shall be kept clean and operated in a sanitary condition, tables and chairs shall be of a material that is smooth, easily cleanable and nonabsorbent and be sanitized after each use, and the massage tables must be cleaned after every use.

(b) All massage employees shall be clean and wear clean outer garments whose use is restricted to the massage establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each massage employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(c) All massage employees, masseurs, and masseuses must be modestly attired.

(d) The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of a massage employee, masseur, or masseuse. Any contact with a patron's genital area is strictly prohibited.

(e) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in approved

sanitary manner. A laundry hamper, with a lid, shall be provided by the operator for the storage of used linen.

(f) Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(g) All services enumerated in this division must be carried on within a massage establishment duly permitted pursuant to this article, except as exempted in subsection (h) of this section.

(h) A massage therapist shall not practice massage therapy at a site, location or place which is not duly licensed as a massage therapy business, except in accordance with the regulations of the state board of therapeutic massage. (Code 1996, § 620.080; Code 2005, § 46-199; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Section 2 of Ord. No. 2017-0187, amended and renumbered former § 46-162 as § 46-161.

Sec. 46-162. Daily register.

(a) Every person who engages in or conducts a massage establishment shall keep a daily register, approved as to form by the health department, of all patrons, with names, addresses and hours of arrival and, if applicable, the rooms or cubicles assigned.

(b) The daily register shall at all times during business hours be subject to inspection by health department officials and shall be kept on file for one year.

(Code 1996, § 620.090; Code 2005, § 46-200; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Section 2 of Ord. No. 2017-0187, renumbered former § 46-163 as § 46-162.

Sec. 46-163. Inspection.

The health department shall from time to time, and at least twice a year, make an inspection of each massage establishment in the city for the purposes of determining that the provisions of this Code are complied with. Such inspections shall be made at reasonable times

and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

(Code 1996, § 620.100; Code 2005, § 46-201; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Section 2 of Ord. No. 2017-0187, renumbered former § 46-164 as § 46-163.

Sec. 46-164. Transfer of permit.

No massage establishment permit shall be transferable except with the written consent of the health department; provided, however, that upon the death or incapacity of the permittee the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of permit.

(Code 1996, § 620.110; Code 2005, § 46-202; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Section 2 of Ord. No. 2017-0187, renumbered former § 46-165 as § 46-164.

Sec. 46-165. Applicability of regulations to existing businesses.

Holders of any outstanding massage establishment permit heretofore issued under any provision of law are required to comply with all provisions of this article.

(Code 1996, § 620.120; Code 2005, § 46-203; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)

Editor's note—Section 2 of Ord. No. 2017-0187, renumbered former § 46-166 as § 46-165.

Sec. 46-166. Exceptions.

The following classes of persons and establishments are exempted from this article:

- (1) Physicians, osteopaths, physical therapists, chiropractors, or podiatrists licensed or registered to practice in the state while performing such services in the practice of their respective professions.
- (2) Registered nurses and licensed practical nurses who are licensed to practice in the state while performing such services in their usual nursing duties.

- (3) Barbers and cosmetologists duly licensed under the laws of this state in the course of practice of their usual and ordinary licensed vocation and profession, as defined in state law.
- (4) Hospitals, clinics, nursing and convalescent homes and other similar institutions dedicated to medical or nursing practices licensed under the laws of this state where massage and baths may be given.
- (5) Health care facilities licensed by the state, and not specified in this article.
 (Code 1996, § 620.140; Code 2005, § 46-205; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2017-0187, § 2, 12-18-2017)
Editor's note—Section 2 of Ord. No. 2017-0187, renumbered former § 46-167 as § 46-166.

Secs. 46-167—46-188. Reserved.

ARTICLE VII. BODY ART ESTABLISHMENTS*

DIVISION 1. GENERALLY

Sec. 46-189. General regulations.

Technicians shall comply with the following regulations:

- (1) No person less than 18 years of age shall receive body art without parental consent. The technician shall obtain proof of age before the body art procedure is done.
- (2) No body art establishment patron shall receive a tattoo unless the body art establishment patron has signed a cautionary notice advising the body art establishment patron that the tattoo should be considered permanent, that it can be removed only with a surgical procedure, and that any effective removal may leave permanent scarring and disfigurement. Written cautionary notices

***Editor's note**—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, renumbered former art. VI as art. VII.

State law reference—Tattooing, branding and body piercing, RSMo 324.520 et seq.

shall be signed by the body art establishment patrons and retained on file at the body art establishment for a period of three years from the date thereof.

- (3) No body art establishment patron shall receive a body piercing unless the body art establishment patron has signed a cautionary notice advising the body art establishment patron that body piercings are not permanent and must be cared for to keep the body piercing functional and free of infection. Written cautionary notices shall be signed by the body art establishment patrons and retained on file at the body art establishment for a period of three years from the date thereof.
- (4) No body art establishment patron shall receive a branding unless the body art establishment patron has signed a cautionary notice advising the body art establishment patron that the branding should be considered permanent, has a high risk of infection and must be cared for to keep it free of infection. Written cautionary notices shall be signed by the body art establishment patrons and retained on file at the body art establishment for a period of three years from the date thereof.
- (5) The skin surface to be tattooed, pierced or branded must be free of rash, pimples, infection or recent scar tissue. The body art establishment patron must be in apparent good health, and the skin to be tattooed, pierced or branded must be generally free of all appearances of obvious pathological conditions, such as the skin must not appear jaundiced (yellowed).
- (6) Body art shall not be administered to any person under the influence of drugs or alcohol. The technician is responsible for making reasonable observation and inquiry to assure himself that the body art establishment patron is sober and not under the influence of drugs or alcohol.

- (7) A technician shall provide written instructions, approved by the health official, regarding the proper care of the tattooed, pierced or branded skin as a precaution against infections to each body art establishment patron following the body art procedure.
- (8) A technician shall not perform or attempt to perform any procedure intended to remove a tattoo. Any attempt by a technician to perform a tattoo removal procedure shall be grounds for revocation of the body art health permit.
- (9) Technicians shall have received the Hepatitis B vaccine series. The health department may make this available to technicians at cost. The health official may waive this requirement for good cause.
- (10) The use of black or blue henna on skin or for temporary tattoos is prohibited.

(Code 2005, § 46-232; Ord. No. 2002-029, § 1, 3-25-2002; Ord. No. 2009-012, § 1, 2-24-2009)

Sec. 46-190. Requirements for premises.

Technicians shall comply with the following regulations:

- (1) Body art establishments and equipment shall be maintained in a sanitary manner. This includes physical cleanliness as well as antiseptic precautions.
- (2) Body art establishments shall be equipped with hot (minimum 100 degrees Fahrenheit) and cold running water. Adequate toilet facilities with soap and sanitary towels properly installed and in compliance with applicable ordinances, rules and regulations of the city shall be provided and be accessible to body art establishment patrons. At least one additional hand washing facility with soap and sanitary towels shall be located within the immediate area of the procedure area.
- (3) The premises shall be kept clean and free of vermin at all times. There shall be no fly or mosquito breeding places or rodent

haborages on the premises. Litter shall not be permitted to accumulate on the premises. Animals shall not be allowed in the procedure room.

- (4) Body art establishments shall be well lit with not less than 20 footcandles in all cleaning and working areas and ten foot-candles in all other areas.
- (5) Body art establishments shall have ventilation as required by applicable ordinances, rules and regulations of the city.
- (6) Floors, walls, ceilings and attachments of body art establishments shall be maintained in a clean condition and kept in good repair. The floor of the procedure area shall have nonporous, smooth, washable surfaces. Carpeting is prohibited. The walls and ceiling shall be of such materials to be easily cleanable and shall be of light color.
- (7) The establishment shall have sufficient covered waste receptacles for disposal of waste materials. Adequate equipment and facilities shall be provided for the disposal of cigarette butts and other disposable items.
- (8) All tables and chairs used in the body art process shall be constructed of a material that is easily cleanable, smooth, light-colored, nonabsorbent, corrosive-resistant and easily sanitized. All tables and chairs shall be maintained in a clean and sanitary condition. Dark-colored tables and chairs in existing city establishments are acceptable until replacement is needed as long as light-colored barrier sheets are used.
- (9) The health official shall be permitted access to all areas of the premises and all records at any reasonable time.

(Code 2005, § 46-233; Ord. No. 2002-029, § 1, 3-25-2002; Ord. No. 2009-012, § 1, 2-24-2009; Ord. No. 2010-038, § 1, 4-13-2010)

Sec. 46-191. Equipment.

Technicians shall comply with the following regulations:

- (1) Nonreusable items such as needles, gauze and styptic pencils shall be treated as contaminated after a single use upon a body art establishment patron and be disposed of in appropriate isolation boxes in accordance with state and federal guidelines.
- (2) Single-service or individual portions of ink or colors in clean, sterilized containers or single-service containers of cups of ink or colors shall be used for each body art establishment patron and shall be discarded after use. Unused ink or colors shall be discarded after use on each body art establishment patron.
- (3) Needles and other instruments used in administering the body art, including hand pieces, piercing jewelry, needle bars and razor blades holders, must be thoroughly rinsed and sterilized after each use. All styptic pencils, gauze, gloves and similar items shall be used for one body art establishment patron and disposed of immediately after use.
- (4) Sterilization of equipment shall be done by steam pressure sterilization (autoclave) for a minimum of 35 minutes at 273 degrees Fahrenheit, or 30 minutes at 250 degrees Fahrenheit at 15 pounds per square inch, followed by a drying time of not less than 15 minutes. All methods of sterilization other than steam autoclaving are prohibited.
 - a. Autoclaves shall be spore-tested at least weekly. Spore kill test effectiveness shall be conducted by an independent laboratory. If a positive spore test is received, the technician shall immediately cease using the autoclave and notify the health department within 48 hours.
 - b. To prepare steam pressure sterilization, each needle shall be flushed with distilled water and left distinctly moist, immediately before the sterilized process is initiated. The tubes containing the needles shall rest on their sides in the sterilizer to facilitate the air removal and steam contact to each tube and needle.
- c. When an autoclave procedure is used, indicator tape or other acceptable test method shall be used to check effectiveness of sterilization. A daily log shall be kept of tests of equipment. The sterilizer shall be certified.
- d. Records of methods of sterilization and temperature cycle for each sterilization process shall be kept on file for inspection by the health official for a period of three years from the date thereof.
- e. All instruments and needles shall be stored in a closed metal or glass container. Sterilized equipment shall be resterilized if the packaged is opened, damaged, or becomes wet.
- (5) All acetate tattoo stencils shall be cleaned with 70 percent isopropyl alcohol between customers. Individual transfers of tattoo designs shall be used once and discarded.
- (6) All furniture or items splashed with blood or body fluid shall be cleaned with a bactericidal cleaner.
- (7) All tubes, hoses, and reusable equipment shall be cleaned with soap and water and/or ultra sounded, then double-wrapped in sterilizer paper or in peel pouches, dated and appropriately sterilized.

(Code 2005, § 46-234; Ord. No. 2002-029, § 1, 3-25-2002; Ord. No. 2009-012, § 1, 2-24-2009; Ord. No. 2010-038, § 1, 4-13-2010)

Sec. 46-192. Minimum aseptic techniques.

Technicians shall comply with the following regulations:

- (1) Neither the body art establishment patron nor technician shall consume or bring

- food or drink into the body art procedure area, and shall not smoke during the procedure or in the room(s) where the body art takes place.
- (2) The technician must be free from communicable disease while tattooing, piercing or branding and present no pustule lesions of the hands and arms.
- (3) The technician's hands shall be thoroughly washed in hot water with soap, using a short-bristled brush, and dried with a disposable paper towel immediately before the body art procedure. If the technician interrupts the procedure to perform other duties, the technician's hands shall be washed again in the manner provided in this section before resuming the body art procedure and a new pair of gloves shall be used.
- (4) The technician shall wear a clean and easily cleanable smock as well as latex/rubber single-use disposable gloves during the body art procedure.
- (5) The technician shall wear an effective hair restraint, shall have clean fingernails and shall be generally clean and free from offensive body odors while performing the body art procedure.
- (6) The skin surrounding the area where the body art is to be placed shall first be washed with a germicidal soap and then shaved with a single service disposable razor. Following shaving, the skin must be gently scrubbed with 70 percent isopropyl alcohol of commercial grade or other germicidal solution using a sterile gauze pad which shall be disposed of after use in an isolation container.
- (7) Petroleum jelly used for applying stencils shall be dispensed from a single-use disposable container or with a sterile tongue blade or sterile applicator stick or gauze, which shall be discarded after each use.
- (8) Acetate stencils shall be cleaned with 70 percent isopropyl alcohol, or other approved germicidal solution for at least 20 minutes and then dried with sterile gauze or air-dried before each use. If individual transfers of tattoo designs are used, these shall be discarded after each use.
- (9) Tattoos and brands shall be bandaged with a sterile non-stick type bandage when the procedure has been completed.
- (10) All infections resulting from tattooing, body piercing or branding reported to any technician or body art establishment shall be reported within five business days to the health official by the person owning or operating the body art establishment. The owner or technician shall advise the body art establishment patron to seek appropriate medical treatment for the infection.
- (Code 2005, § 46-235; Ord. No. 2009-012, § 1, 2-24-2009)
- Secs. 46-193—46-222. Reserved.**
- DIVISION 2. PERMITS**
- Sec. 46-223. Generally.**
- (a) *Permit required.* It shall be unlawful for any person to tattoo, body pierce or brand another person except at a body art establishment where the establishment and technicians, as individuals, have obtained a license from the state division of professional registration and where a current body art establishment permit has been issued by the health official.
- (b) *Application.* Any person desiring a body art establishment permit shall make written application for a permit on forms provided by the health official. The application shall include the applicant's full name, address, telephone number, location of the proposed body art establishment and such other information as may be required.
- (c) *Issuance.* After receipt of an application for a body art establishment permit, the health official shall inspect the proposed body art establishment to determine compliance with the provisions of this article. If applicable require-

ments of this article have been met, the health official shall issue a body art establishment permit.

(d) *Annual fee.* An annual fee shall be paid pursuant to the city fee schedule at the time the body art establishment permit is issued.

(e) *Expiration; transfer; existing establishments.* A body art establishment permit may be granted at any time during the year. Any body art establishment currently operating in the city shall be in compliance with this article within 90 days of the effective date of the ordinance from which this article is derived. Body art establishment permits shall not be transferable.

(f) *Posting.* A current body art establishment permit shall be posted at all times in a prominent and conspicuous place in the body art establishment where it may be readily observed by body art establishment patrons.

(Code 2005, § 46-261; Ord. No. 2002-029, § 1, 3-25-2002; Ord. No. 2017-0187, § 2, 12-18-2017)

Sec. 46-224. Suspension or revocation.

(a) Body art establishment permits may be suspended by the health official for failure of the holder to comply with the requirements of this article. Whenever the health official finds unsanitary or other conditions in the operation of a body art establishment which, in their judgment, constitute an imminent health hazard, or for interference with the health official in the performance of his duties, the health official may issue a written notice to the permit holder citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken. If deemed an imminent health hazard, such order shall state that the permit is immediately suspended and all body art operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately, but upon written petition to the health official shall be afforded a hearing within five days before the health official as hearing officer.

(b) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstate-

ment of the permit. Within five business days following the receipt of a written request, the health official shall make a reinspection. If the applicant is complying with the requirements of this article, the permit shall be reinstated.

(c) For serious or repeated violations of any of the requirements of this article or for interference with the health official in the performance of their duties, the permit may be permanently revoked after an opportunity for a public hearing as provided in chapter 30 of this Code for administrative hearings.

(Code 2005, § 46-262; Ord. No. 2002-029, § 1, 3-25-2002; Ord. No. 2017-0187, § 2, 12-18-2017)

Secs. 46-225—46-241. Reserved.

ARTICLE VIII. AIR POLLUTION*

Sec. 46-242. Emission of dense smoke prohibited.

It is unlawful for any person to cause or permit the emission of any smoke from any source whatever of a density equal to or greater than that density described as No. 2 on the Ringelmann Smoke Chart except as permitted by the fire department in accordance with city ordinances and state department of natural resources regulations.

(Code 1988, § 260.020; Code 1996, § 270.020; Code 2005, § 46-522; Ord. No. 356, § 2, 10-10-1966)

Sec. 46-243. Escape of certain matter prohibited.

It is unlawful for any person to permit or cause the escape of such quantities of soot, cinders, noxious acids, fumes, and gases or other particulate matter in any quantity that exceeds the National Ambient Air Quality Standards from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort, and safety of

*Editor's note—Ord. No. 2017-0187, § 2, adopted Dec. 18, 2017, renumbered former art. VII as art. VIII.

State law references—Air conservation, RSMo 643.020 et seq.; municipal authority to regulate, RSMo 643.140; limitation of local regulatory authority, RSMo 192.290.

any such person or the public or in any such manner as to cause or have a tendency to cause injury or damage to property or business. The escape of such matter is to be declared a public nuisance. Each day wherein the violation of this section occurs shall constitute a separate offense. (Code 1988, § 260.050; Code 1996, § 270.050; Code 2005, § 46-523; Ord. No. 356, § 5, 10-10-1966)

Sec. 46-244. Tests to determine quantity of substance or elements.

In order to determine the quantity of fly ash, dust, soot, cinders, dirt, grime, noxious acids, fumes, and gases or other particulate matter being emitted or escaping into the open air, it shall be the duty of the owner or operator of any furnace or other combustion device or of any machine, contrivance, equipment, process operation, or other source that may cause the emission or escape of any of the above pollutants to make or cause to be made at his expense, and under the direction and supervision of the health official, when requested in writing by the health official, an examination and test thereof and of any equipment and devices or contrivance operated in conjunction therewith for the purpose of controlling such emission.

(Code 1988, § 260.060; Code 1996, § 270.060; Code 2005, § 46-524; Ord. No. 356, § 6, 10-10-1966)

Sec. 46-245. Entry onto premises.

In the general performance of his duties, the health official is hereby authorized to enter at all reasonable hours upon and into any buildings, establishments, premises, and enclosures in or from which they have reason to believe the provisions of this article are being violated to inspect or examine such buildings, establishments, premises, or enclosures and to collect and preserve evidence of all facts as to the violations of this article.

(Code 1988, § 260.080; Code 1996, § 270.080; Code 2005, § 46-525; Ord. No. 356, § 8, 10-10-1966)

Sec. 46-246. Interference with enforcement.

Any person interfering in any manner or impeding the performance of this duty of the health official shall be deemed guilty of a violation of this article and shall be subject to the penalties provided in this chapter for the violations of provisions of this chapter. This section shall likewise apply to the performance of duty of those employees and representatives of the health official.

(Code 1988, § 260.090; Code 1996, § 270.090; Code 2005, § 46-526; Ord. No. 356, § 9, 10-10-1966)

Chapters 47—49

RESERVED

Chapter 50

HUMAN RELATIONS*

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Sec. 50-122. Discrimination in public accommodations prohibited; exceptions.

***State law references**—Human rights, RSMo 213.010 et seq.; unlawful employment practices, RSMo 213.055; community affairs, RSMo 251.010 et seq.; planning and development generally, RSMo 251.150 et seq.; discriminatory practices, RSMo 314.100 et seq.; municipal housing, housing authorities law, RSMo 99.010 et seq.; discrimination in public accommodations, RSMo 213.065; discrimination in commercial real estate loans, RSMo 213.045; discrimination in selling or renting by real estate agencies, RSMo 213.050.

ARTICLE I. IN GENERAL

Sec. 50-1. Purpose.

The purposes of this chapter are:

- (1) To secure for all individuals within the city freedom from any discriminatory practice made unlawful by article III of this chapter.
- (2) To implement within the city the policies embodied in state and federal human rights legislation, and to promote cooperation between the city and the state and federal agencies enforcing that legislation.
- (3) To provide a human rights commission which is dedicated to the elimination of discriminatory practices made unlawful by article III of this chapter.

(Code 1996, § 290.010; Code 2005, § 50-1)

Sec. 50-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Aggrieved person means any person who is attempting to provide housing for himself or his family in the city.

Complainant means a person who has filed a complaint with the human rights commission alleging that another person has engaged in a prohibited discriminatory practice.

Covered multi-family dwelling means buildings consisting of four or more units if such buildings have one or more elevators; and ground floor units in other buildings consisting of four or more units.

Disability means a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of

public accommodation, or occupying the dwelling in question. For purposes of this chapter, the term "disability" does not include current illegal use of or addiction to a controlled substance as such term is defined by RSMo 195.010; however, a person may be considered to have a disability if that person:

- (1) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
- (2) Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
- (3) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.

Discrimination means any unfair treatment based on race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing.

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with:

- (1) A parent or another person having legal custody of such individual; or
- (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Housing for older persons.

- (1) The term "housing for older persons" means housing:
 - a. Provided under any state or federal program that the human rights com-

- mission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;
- b. Intended for, and solely occupied by, persons 62 years of age or older; or
 - c. Intended and operated for occupancy by at least one person 55 years of age or older per unit.
- (2) Housing qualifies as housing for older persons under this chapter if:
- a. The housing has significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
 - b. At least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
 - c. The owner or manager of the housing has published and adhered to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Places of public accommodation means all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement, including, but not limited to:

- (1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;
- (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling

food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment;

- (3) Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof;
- (4) Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
- (5) Any public facility owned, operated, or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds;
- (6) Any establishment which is physically located within the premises of any establishment otherwise covered by this definition or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

Rent includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

Respondent means a person who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the human rights commission.

Unlawful discriminatory practice means any act that is unlawful under this chapter.
(Code 1996, § 290.020; Code 2005, § 50-2; Ord. No. 2017-0003, § 2, 1-10-2017)

Secs. 50-3—50-24. Reserved.

ARTICLE II. COMMISSION ON HUMAN RIGHTS

Sec. 50-25. Established; membership; qualifications; terms; vacancies.

There is hereby established a human rights commission. The human rights commission shall

consist of three members, who shall be appointed by a majority of the members of the board from among the residents of the city and who shall serve as such without compensation. The board shall endeavor to include individuals on the human rights commission from various protected categories that have historically been discriminated against. Of the three members first appointed, one shall be appointed for one year, one shall be appointed for two years and one shall be appointed for three years. Thereafter, appointment shall be for terms of three years. In the event of the death, resignation or removal of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

(Code 1996, § 290.030; Code 2005, § 50-31)

Sec. 50-26. Officers; meetings and quorum; rules and procedures; compensation; attendance; training.

(a) The human rights commission shall elect a chairperson, vice-chairperson, and secretary from among its members and create and fill such other offices as it may determine. The term of such elective officers shall be for one year.

(b) The human rights commission shall meet periodically as necessary. The chairperson shall preside at all meetings. Two members shall constitute a quorum at any meeting.

(c) The human rights commission shall adopt rules and procedures for the conduct and transaction of its business and shall keep a record of its proceedings.

(d) Any human rights commission member having three unscheduled absences without good cause within a period of one year, or who shall be absent from three consecutive regular meetings without consent of the chairperson or person acting in such chairperson's stead, shall automatically forfeit such office, and the chairperson shall promptly notify the board through the city clerk of such vacancy.

(Code 1996, § 290.040; Code 2005, § 50-32)

Sec. 50-27. Functions, powers and duties.

The human rights commission shall have the following functions, powers and duties:

- (1) To encourage fair treatment for and to foster mutual understanding and respect among, and to discourage discrimination against, any racial, ethnic, religious or other group protected by this chapter, members of these groups or disabled persons.
- (2) To formulate and carry out educational programs designed to minimize or eliminate those discriminatory practices made unlawful by article III of this chapter.
- (3) To receive and investigate complaints alleging any discriminatory practices made unlawful by article III of this chapter.
- (4) To implement the purposes of this chapter by conference, conciliation and persuasion so that persons may be guaranteed their civil rights and good will be fostered.
- (5) To provide mediation services to resolve incidences of alleged discriminatory practices made unlawful by article III of this chapter.
- (6) To cooperate with other organizations, private and public, to discourage discrimination.
- (7) To advise the board on human rights issues.
- (8) To hold public hearings on the state of human rights and relations in the city and on specific human rights issues.
- (9) To sponsor or initiate specifically targeted workshops and ongoing programs to improve human relations and to decrease tensions in the city.
- (10) To present informational programs on human rights to school, business, service and other organizations.
- (11) To formulate policies and to adopt, promulgate, amend and rescind suitable rules and regulations to carry out the

provisions of this chapter and the policies of the human rights commission in connection therewith.

- (12) To provide each year to the board a full written report of all its activities and of its recommendations.

(Code 1996, § 290.050; Code 2005, § 50-33)

Secs. 50-28—50-57. Reserved.

ARTICLE III. DISCRIMINATORY PRACTICES

DIVISION 1. GENERALLY

Sec. 50-58. Miscellaneous prohibitions.

It shall be an unlawful discriminatory practice:

- (1) To aid, abet, incite, compel, or coerce the human rights commission of acts prohibited under this article or to attempt to do so;
- (2) To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this article or because such person has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this article;
- (3) For the city to discriminate on the basis of race, color, religion, national origin, gender, military status, age, disability, political opinions or affiliations, genetic information, ancestry, familial status as it relates to housing or any other characteristic protected by law, except that no person shall be employed who advocates or belongs to a group that advocates the violent overthrow of the federal, state, county or city government; or
- (4) To discriminate in any manner against any other person because of such person's association with any person protected by this article.

(Code 1996, § 290.100; Code 2005, § 50-61)

Sec. 50-59. Exemptions.

- (a) Nothing in this article shall be construed to:
 - (1) Require the human rights commission to review or approve the plans, designs or construction of all covered dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of section 50-102(b)(3).
 - (2) Invalidate or limit any law of the state or of the city that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this article.
 - (b) Nothing in division 3 of this article:
 - (1) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
 - (2) Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision of the sections regarding familial status apply with respect to housing for older persons.
 - (3) Shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined by RSMo 195.010.
 - (c) Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national

origin, nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(d) Nothing in this article, other than the prohibitions against discriminatory advertising in section 50-102(a)(3), shall apply to:

- (1) The sale or rental of any single-family house by a private individual owner, provided the following conditions are met:
 - a. The private individual owner does not own or have any interest in more than three single-family houses at any one time; and
 - b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one such sale in any 24-month period; or
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(Code 1996, § 290.110; Code 2005, § 50-62)

Secs. 50-60—50-76. Reserved.

**DIVISION 2. ENFORCEMENT
PROCEDURES**

Sec. 50-77. Filing of complaints.

(a) Any individual who claims to be aggrieved by a discriminatory practice may file with the human rights commission a verified complaint in

writing stating the name and address of the person alleged to have committed such practice, the particulars thereof, and such other information as may be required by the human rights commission.

(b) Any complaint filed under this section in which affirmative relief is sought shall state what relief is sought or proposed.

(c) All such complaints shall be filed within 180 days of the date of the alleged discriminatory practice.

(d) An individual who files a complaint with the human rights commission shall be advised of the possibility of filing a complaint with the state commission on human rights.

(Code 1996, § 290.120; Code 2005, § 50-81)

Sec. 50-78. Investigation, conciliation and mediation of complaints.

(a) Complaints shall be investigated and conciliated or mediated by individuals who have been approved by the human rights commission and trained in investigation, conciliation and mediation.

(b) Upon filing of a complaint, the chairperson of the human rights commission shall designate an individual to investigate the allegations. The individual shall promptly investigate such allegations, and if he determines that probable cause exists for crediting the allegations of the complaint, he shall thereupon undertake to eliminate the alleged discriminatory practice by conference, conciliation and persuasion or mediation, and shall inform the human rights commission of the results of such efforts. If the individual determines that no such probable cause exists, he shall so report to the human rights commission, which shall thereupon dismiss the complaint without further proceedings, or direct further investigation or, if it determines that probable cause exists for crediting the allegations of the complaint, direct that the alleged discriminatory practice be the subject of conference, conciliation and persuasion or mediation. Neither the members of the human rights commission nor any person participating in the investigation shall disclose what has occurred in the course of

such efforts to conciliate. The determination of probable cause shall be made, and the investigation and conciliation or mediation shall be conducted, in accordance with such rules, regulations and guidelines as the human rights commission shall prescribe.

(c) If such efforts fail to eliminate the alleged discriminatory practice or practices, the complainant shall be referred to the state commission on human rights.

(Code 1996, § 290.130; Code 2005, § 50-82)

Sec. 50-79. Limitation on commencement of prosecution.

(a) No prosecution for a violation of any provision of this article shall be commenced unless a complaint shall have first been filed with the human rights commission and efforts of the human rights commission to eliminate the alleged violation have failed.

(b) The period of limitation for any violation of this article shall not run during any time while a complaint involving the alleged violation is pending before the human rights commission.

(Code 1996, § 290.140; Code 2005, § 50-83)

Secs. 50-80—50-101. Reserved.

DIVISION 3. HOUSING AND COMMERCIAL REAL ESTATE

Sec. 50-102. Unlawful housing practices.

(a) It shall be an unlawful housing practice:

- (1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or to deny or otherwise make unavailable a dwelling to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status of any person.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, disability, or familial status.

- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, ancestry, sex, disability, or familial status, or an intention to make any such preference, limitation, or discrimination.
 - (4) To represent to any person because of race, color, religion, national origin, ancestry, sex, disability, or familial status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
 - (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of persons of a particular race, color, religion, national origin, ancestry, sex, disability, or familial status.
 - (6) Discriminate in the sale or rental of housing on the basis of a handicap of that buyer or renter; a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or any person associated with that buyer or renter. The design and construction of new multi-family dwellings containing four or more units is required to meet certain adaptability and accessibility requirements in accordance with Section 804 of the 1988 Fair Housing Amendments Act.
 - (7) Discriminate in the sale or rental of housing on the basis of familial status or because a family has children, exempting certain types of buildings that house older persons (e.g. Section 202 housing) in accordance with Section 807 of the 1988 Fair Housing Amendments Act.
- (b) For purposes of this division, discrimination includes:
- (1) A refusal to permit, at the expense of the disabled person, reasonable modifica-

- tions of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
- (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
- (3) In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:
- a. The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;
 - b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - c. All premises within such dwellings contain the following features of adaptive design:
 1. An accessible route into and through the dwelling;
 2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 3. Reinforcements in bathroom walls to allow later installation of grab bars; and
4. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- (c) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for physically disabled people, commonly cited as ANSI A117.1, suffices to satisfy the requirements of subsection (b)(3) of this section.
- (Code 1996, § 290.060; Code 2005, § 50-101; Ord. No. 2017-0003, § 2, 1-10-2017)
- State law reference**—Unlawful housing practices, RSMo 213.040.
- Sec. 50-103. Discrimination in commercial real estate loans.**
- It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan to a person applying therefore for the purpose of purchasing, constructing, repairing or maintaining a dwelling, or to discriminate against any person in the fixing of the amount or conditions of such loan, because of race, color, religion, national origin, ancestry, sex, disability or familial status of such person or of any person therein associated in connection with such financing.
- (Code 1996, § 290.070; Code 2005, § 50-102; Ord. No. 2017-0003, § 2, 1-10-2017)
- Sec. 50-104. Discrimination in selling or renting by real estate agencies.**
- It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings, on account of race, color, religion, national origin, ancestry, sex, disability, or familial status.
- (Code 1996, § 290.080; Code 2005, § 50-103)
- Secs. 50-105—50-121. Reserved.**

DIVISION 4. PUBLIC ACCOMMODATIONS

Sec. 50-122. Discrimination in public accommodations prohibited; exceptions.

(a) All persons within the city are free and equal and shall be entitled to the full and equal use and enjoyment within this city of any place of public accommodation, as defined in this chapter, without discrimination or segregation on the grounds of race, color, religion, national origin, sex, ancestry, or disability.

(b) It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny any other person, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, as defined in section 50-2 and this section, or to segregate or discriminate against any such person in the use thereof on the grounds of race, color, religion, national origin, sex, ancestry, or disability.

(c) The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association or society, or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in section 50-2 and this section.

(Code 1996, § 290.090; Code 2005, § 50-121)

Chapters 51—53

RESERVED

Chapter 54

LAW ENFORCEMENT*

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Secs. 54-71—54-80. Reserved.

***State law references**—Military affairs and police generally, RSMo 40.005 et seq.; peace officers, RSMo 590.010 et seq.; arrest records, RSMo 610.100 et seq.; law enforcement agency records, RSMo 610.200; confidentiality of 911 reports, RSMo 610.150; appointment of men and women to city police forces, RSMo 71.200; erection and maintenance of city courthouses and jails, RSMo 71.300; establishment and maintenance of city jail in special charter cities with populations of less than 10,000, RSMo 81.090; city police and fire departments generally, RSMo 85.005 et seq.; police relief and pension systems, RSMo 86.010 et seq.; police administration of traffic rules, RSMo 300.015; authority of police and fire department officials with regard to traffic, RSMo 300.075; obedience to police and fire department officials required, RSMo 300.080.

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Article III. Alarm Systems

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ARTICLE I. IN GENERAL

Sec. 54-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Alarm business means any business operated by a person, company or corporation, which engages in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, servicing, or responding to a burglar, hold-up or fire alarm, or which causes any of these activities to take place.

Alarm system means any device arranged to signal, by means of indirect connection to the police department, the presence of a hazard requiring urgent attention and to which the police or fire department is expected to respond. The term "alarm system" also includes all local audible and automatic dialing devices, systems and techniques.

Alarm user means any person on whose premises, whether commercial or residential, an alarm system is maintained within the city which is connected indirectly to the police department. This shall include persons on whose premises the alarm system employs an audible signal that emits sounds or flashing lights or beacons, designed to signal persons outside the premises. A user is also one who maintains an automatic dialing device.

Emergency situation means any situation in which the police officer has a reasonable belief that a crime is about to be committed, is being committed, or has been committed involving injury or threat of injury to any person, property, or governmental interest and his response is reasonably necessary to prevent or end such emergency situation or mitigate the likelihood of injury involved in such emergency situation. The determination of the existence of any emergency situation shall be in the discretion of the police officer making the response or in the

discretion of a police officer or governmental officer of the political subdivision in which the emergency situation is alleged to be occurring.

Evidence means:

- (1) Weapons, tools, devices and substances, other than motor vehicles, aircraft or watercraft, used by the owner or with the owner's consent as a means of committing offenses within the city;
- (2) Contraband items if the possession of the item is an offense under city ordinance;
- (3) Contraband items that have been used by the owner, or used with his acquiescence or consent, as a raw material for manufacturing or producing, or as an instrument to manufacture or produce, an item whose possession is an offense under city ordinance or state law or which any statute authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest; and
- (4) All other confiscated items that may be used as evidence.

False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, negligence of the alarm system owner, user or lessee or employees/agents thereof, or any other cause not representing an emergency situation resulting from the owner's negligence or improper maintenance/installation of the system. The term "false alarm" does not include alarms caused by weather conditions, or conditions and situations beyond the system owner's control.

Municipal police officer means any police officer of the city possessing the duty and power to arrest for violation of the general criminal laws of the state or for violation of city ordinances.

Security service means any business or individual that provides security, patrols (both foot and vehicle), bodyguard service, investigative services, surveillance, background investigations, civil paper service, photography work, and loss prevention service, shoplifting prevention, and money transportation and movement, guard

service, whether personnel are uniformed or non-uniformed, whether personnel provide such service in marked/distinguished vehicles or not, whether personnel are armed or unarmed and whether personnel use, carry or maintain or display any identifying insignias, badges, name tags, business cards or any other identifying and distinguishing items or equipment.

Unclaimed property means 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 police department, which is not subject to other provisions of state or federal law pertaining to the disposal of property.

(Code 1988, §§ 200.040, 680.005; Code 1996, §§ 200.020, 210.010, 660.005; Code 2005, §§ 54-32, 54-61, 54-91; Ord. No. 88-74, §§ 1—5, 11-28-1988; Ord. No. 89-43, § 1, 10-23-1989; Ord. No. 91-51, § 1, 9-23-1991; Ord. No. 93-37, § 1, 5-10-1993; Ord. No. 96-072, § 1, 8-26-1996; Ord. No. 2024-0050, § 2, 6-11-2024)

Secs. 54-2—54-18. Reserved.

ARTICLE II. POLICE DEPARTMENT

DIVISION 1. GENERALLY

Sec. 54-19. Appointment of police chief.

The police chief shall be appointed by the city administrator with approval of the board.
(Code 1988, § 200.010; Code 1996, § 200.010; Code 2005, § 54-31; Ord. No. 314, § 2, 4-9-1962)

Sec. 54-20. Response to emergency outside city limits; mutual aid.

(a) A municipal police officer of the city shall have the authority in accordance with the departmental procedures to respond to an emergency situation outside the boundaries of the city while on duty. As a further part of this section, the city hereby grants to the City of Hollister Police Department and the City of

Springfield Police Department the right and authority to respond to emergency situations within the city when requested for mutual aid.

(b) The authority contained in this section shall permit the response by one or more municipal police officers to an emergency situation within any incorporated area whose corporate limits are common with the city, or within a one-mile radius from the corporate limits of the city in an unincorporated area. The police chief may in his discretion authorize response beyond this designated area.

(c) Police officers shall not leave the city inhabitants with inadequate police protection or be absent for extended periods of time. When requested, response shall be in aid of, and to assist, the authorities of the state, county or municipality in which the emergency is located. No police officer of the city shall be authorized to make an arrest by reason of this authorization to respond nor shall he be authorized to use his weapon, except to respond to a threat of serious physical harm to himself or others or to make an arrest for a felony violation involving the infliction or threatened infliction of serious physical harm.

(d) Every response to an emergency situation outside the city's boundaries shall be approved by the police chief and shall be reported to the police chief as soon as practical and in accordance with departmental policies and procedures, if approval for response is by other than the police chief.

(Code 1988, § 200.040; Code 1996, § 200.020; Code 2005, § 54-32; Ord. No. 88-74, §§ 1—5, 11-28-1988; Ord. No. 89-43, § 1, 10-23-1989; Ord. No. 93-37, § 1, 5-10-1993)

Sec. 54-21. Major case squad.

The city police department, on behalf of the city, is hereby authorized to join and cooperate with area law enforcement agencies in the formation of the South Central Missouri Major Case Squad for the purpose of investigation of certain individual crimes which occur within certain jurisdictions that belong to the South Central Missouri Major Case Squad, provided participation is in accordance with state statute. The city

shall participate only with those political subdivisions that have authorized participation in the South Central Missouri Major Case Squad in accordance with state law.

(Code 1996, § 200.050; Code 2005, § 54-34; Ord. No. 97-048, § 1, 10-13-1997)

Secs. 54-22—54-31. Reserved.

DIVISION 2. DISPOSAL OF PERSONAL PROPERTY AND CONTRABAND*

Subdivision I. In General

Secs. 54-32—54-43. Reserved.

Subdivision II. Procedure for Disposal of Certain Evidence and Contraband

Sec. 54-44. Evidence or contraband to be disposed.

Unless a statute or ordinance otherwise provides, evidence or contraband which comes into the custody of a police officer, the police department or the city municipal court as a result of any seizure, and which has not been returned to the claimant, shall be disposed of as provided in this section.

Sec. 54-45. Notice of hearing.

Upon the filing of a motion by the city attorney, the judge shall order notice to be given to all persons interested in the evidence, including the person out of whose possession the evidence was seized, of the time, place, and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all the interested persons. Notice may be given to unknown persons and to persons of unknown addresses by publication in the newspaper. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of his claim to the

***State law references**—Uniform Disposition of Unclaimed Property Act, RSMo 447.500 et seq.; lost and unclaimed property, RSMo 447.010 et seq.; disposition of unclaimed seized property, RSMo 542.301.

evidence and upon the issue of whether or not it is subject to forfeiture, except as noted in section 54-46.

Sec. 54-46. Sale or destruction of forfeited evidence or contraband.

If it is clear and apparent that the evidence or contraband in issue is in fact a kind subject to forfeiture under this section, the judge shall declare it forfeited and order its destruction or sale. The judge shall direct that the destruction or sale of the evidence or contraband needed in a criminal proceeding shall be postponed until this need no longer exists.

Sec. 54-47. Lawful use for evidence or contraband.

If the forfeited evidence or contraband can be put into a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use have been made.

Sec. 54-48. Lien against evidence or contraband.

If there is a holder of a bona fide lien against the evidence or contraband which has been used as a means of committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without his acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to him to the amount of his lien. The remaining amount shall be paid into the city general fund.

Sec. 54-49. Sale or destruction of perishable contraband or evidence.

If the evidence or contraband is perishable, the judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of the sale, less necessary expenses of preservation and sale, shall be held in lieu of the evidence.

Sec. 54-50. Compliance with state law.

Nothing in this section shall be contrary to the procedures established by RSMo 542.301.

Sec. 54-51. Disposal of weapons.

Whenever a firearm 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 police chief may cause such firearm to be retained for use by the city and the police department or an application may be made by the police chief to the municipal court judge for an order of disposition. The municipal court judge 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 copy of the license or permit shall be provided to the police department at the time of the sale. The municipal court judge is also authorized to order the destruction of ammunition, of any firearm or weapon which is illegal to possess, or of a firearm which is in such worn condition as to be dangerous to use.

Sec. 54-52. Claim for stolen property.

Stolen property, or evidence acquired in any manner other than declared in section 54-51, shall be delivered by order of the court upon claim having been made and established, to the person who is entitled to its possession. The claim may be made by the motion filed with the court and, upon filing such motion, the judge shall order notice be given to all persons interested in the evidence, in a manner reasonably calculated to reach the attention of all interested persons. After hearing, the judge shall order the evidence delivered to the person entitled to possession, if any.

Sec. 54-53. Municipal city judge to order destruction of property; certificate of destruction.

If the judge shall order the destruction of evidence or contraband which is not otherwise disposed of as described in this section, the evidence or contraband shall be destroyed in the presence of two police department employees,

who shall sign a certificate of such destruction. These certificates shall become part of the permanent records kept by the police department.

Secs. 54-54—54-64. Reserved.*Subdivision III. Procedure for Disposal of Certain Unclaimed Property***Sec. 54-65. Property to be held at police department.**

All unclaimed property shall be kept by the 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 ownership and right of possession.

Sec. 54-66. Notice of hearing.

After 60 days or any time thereafter, the police chief may request the city purchasing agent to cause a notice to be published in the newspaper or digital media for a period of three days, notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. The notice shall state the final date a claim can be made for the property. This section pertains to unclaimed property that has a value that warrants such sale. Unclaimed property that is broken in a state of disrepair or other dysfunctional condition shall be disposed of as noted in section 54-70.

Sec. 54-67. Sale of forfeited property.

If the owner or person entitled to the possession of the unclaimed property fails to make a claim, then the unclaimed property shall be transferred to a city department or sold in accordance with the city finance procedures. The acquiring party shall take a good and perfect title to the unclaimed property.

Sec. 54-68. Disposal of weapons.

Whenever a firearm comes into the possession of the police department as unclaimed property, and there is no applicable state statute for its disposition, then the police chief may cause such firearm to be retained for use by the city and the

police department or application may be made by the police chief to the municipal court judge for an order of disposition. The municipal court judge 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 copy of the license or permit shall be provided to the police department at the time of the sale. The police chief may cause ammunition or a firearm which is illegal to possess by the public to be retained for use by the city and the police department or application may be made by the police chief to the municipal court judge for an order of disposition. The municipal court judge is authorized to order the destruction of ammunition, or of any firearm or weapon which is illegal to possess by the public, or is a firearm which is in such worn condition as to be dangerous to use.

Sec. 54-69. Disposal of seized alcoholic beverages.

The police chief is authorized to issue an order of destruction of any alcoholic beverage not seized as a result of a violation of the laws.

Sec. 54-70. Police chief to order destruction of property; certificate of destruction.

The police chief is authorized to order the destruction of all other unclaimed property which is not described in this section. This unclaimed property shall be destroyed in the presence of two police department employees, who shall sign a certificate of destruction. These certificates shall become part of the records kept by the police department.

Secs. 54-71—54-80. Reserved.

ARTICLE III. ALARM SYSTEMS

Sec. 54-81. Destination of alarm termination.

All alarm terminations shall be directed to destinations/services that are monitored by personnel and to such a center that has the capability of providing human response and

advises the police department of alarm by human response. Direct connections to the police department are not authorized in any form or type. (Code 1996, § 210.020; Code 2005, § 54-62; Ord. No. 96-072, § 2, 8-26-1996)

Sec. 54-82. Alarm user's permit required.

All alarm users within the city of any type, expecting response from the police or fire department, shall be required to apply for an alarm permit from the police department during annual business license renewal. Permits must be updated yearly at the time of the merchant's license renewal and/or any time any change in the alarm system is made or at any time the person responsible for alarm maintenance and response has been removed from permit, or if changes in "call-out" persons have been made. The police department shall maintain and furnish alarm permits to all applicants provided they fall within the guidelines and definitions of this article and provided they adhere to all city, state and federal laws and ordinances governing alarms. All users shall furnish full names, addresses and phone numbers of all agents, employees and other persons responsible for the alarm location and alarm systems. Any other pertinent information as determined by the police chief and included on the permit application shall also be provided as requested, to ensure safety of responding officers, citizens and business personnel. All new alarm installations shall be inspected and approved by the fire chief or building inspector, prior to issuance of the initial alarm permit. Alarm permits shall be provided at no cost to the user, upon approval.

(Code 1996, § 210.030; Code 2005, § 54-63; Ord. No. 96-072, § 3, 8-26-1996)

Sec. 54-83. Right of entry of enforcement officers.

For the purpose of enforcing provisions of this article, the police chief and fire chief or city's designee shall have the authority to, at reasonable times and upon reasonable notice, enter any premises in the city for the purpose of inspecting alarm systems subject to this article.

(Code 1996, § 210.040; Code 2005, § 54-64; Ord. No. 96-072, § 4, 8-26-1996)

Sec. 54-84. Local alarms equipped with exterior sound- or light-producing device.

Any alarm system permitted by the city with any exterior sound-producing device, audible signal of any type, or light-emitting system, including, but not limited to, gongs, buzzers, sirens, bells, horns, flashing lights, or beacons, shall be equipped with a device that limits the operation of such exterior sound- or light-producing devices to 15 minutes or less. All alarm systems shall also adhere to all other requirements of this article at the time of permit issuance.

(Code 1996, § 210.050; Code 2005, § 54-65; Ord. No. 96-072, § 5, 8-26-1996)

Sec. 54-85. Operational requirements.

(a) The alarm user shall be responsible for maintaining the alarm system in good repair and operational condition.

(b) All alarm systems must be capable of avoiding short-term power interruptions and shall be set at sensitivity levels that will not allow triggering of the system by close proximity to radio and electrical signals (i.e., police and fire radios, electrical garage door openers, etc.).

(Code 1996, § 210.060; Code 2005, § 54-66; Ord. No. 96-072, § 6, 8-26-1996)

Sec. 54-86. Reimbursement for excessive false alarms.

Receipt of, or police or fire response to, more than three false alarms within any 12-month period from any alarm system at the same location may result in an expense reimbursement in the amount provided in the city fee schedule and an additional expense reimbursement in the amount provided in the city fee schedule may be assessed for each additional response or alarm from the alarm user to the city. The police chief and fire chief shall maintain all respective alarm responses and false alarm statistics, and shall be responsible for notification and collection of expense reimbursements. (Code 1996, § 210.070; Code 2005, § 54-67; Ord. No. 96-072, § 7, 8-26-1996; Ord. No. 2014-0072, § 2, 8-26-2014)

Sec. 54-87. Automatic dialing devices connected to police department.

It shall be unlawful for any person to install, have installed or use within a residence, business or any building or structure or otherwise use within the city limits an automatic dialing device, tape recording or tape dialing device which when activated sends a prerecorded voice message or other alarm signal over the telephone cable or wire to the police department.

(Code 1996, § 210.080; Code 2005, § 54-68; Ord. No. 96-072, § 8, 8-26-1996)

Sec. 54-88. Nonliability of city.

(a) The city, its police department and fire department shall take every reasonable precaution to ensure all alarm signals from systems approved and permitted by the city are given appropriate attention and are acted upon with dispatch. Nevertheless, the city shall not be liable for any defect in the operation of any alarm system for any reason.

(b) If the city finds it necessary pursuant to this article to disconnect an alarm system or by other means restrict or refuse emergency police or fire response, the city shall incur no liability by such action or refusal thereof.

(Code 1996, § 210.090; Code 2005, § 54-69; Ord. No. 96-072, § 9, 8-26-1996)

Sec. 54-89. Intentional false alarms; violations generally.

The intentional activation of a known false alarm by any means, by any person, is prohibited under this article. The intentional activation of a known false alarm, and/or failure to comply with all provisions of this article by any person responsible for such alarm location, including failure to comply with requests for expense reimbursement, shall be a violation.

(Code 1996, § 210.100; Code 2005, § 54-70; Ord. No. 96-072, § 10, 8-26-1996)

Secs. 54-90—54-107. Reserved.

ARTICLE IV. SECURITY AND OTHER GUARD SERVICES*

DIVISION 1. GENERALLY

Sec. 54-108. Uniform and vehicles.

(a) If uniforms and/or vehicles are used by a security service, it shall be required that uniforms, vehicles and markings with identifying insignias must include the word "security" or "guard" but shall not include the word "police." Nothing shall be worn or used that closely resembles uniforms, equipment or vehicles used and worn by the police department.

(b) Security service personnel using vehicles of any type, whether marked or unmarked, may not display or use (illuminated or not) any red or blue light (commonly referred to or considered as emergency lights) of any type at any time on any vehicle on any public street, highway, parking lot normally considered open to the public or any other public properties within the corporate limits of this city.

(Code 1988, § 680.030; Code 1996, § 660.030; Code 2005, § 54-92; Ord. No. 91-7, § 3, 1-28-1991; Ord. No. 91-51, § 1, 9-23-1991; Ord. No. 93-7, 2-8-1993)

Sec. 54-109. Firearms.

Persons that carry any type of firearm or other lethal weapon shall adhere to all state, federal and local laws applicable to such firearm or other weapon. Armed security personnel must be reported per requirements of section 54-137(a)(6), including type of firearm or weapon used and carried.

(Code 1988, § 680.040; Code 1996, § 660.040; Code 2005, § 54-93; Ord. No. 91-7, § 4, 1-28-1991)

Sec. 54-110. Reporting of criminal activity.

It shall be required that security/guard personnel report all crimes and suspicious activity to the police department as quickly and safely as possible, and remain available for contact by

*State law reference—Validity of local license of security guard, RSMo 71.195.

authorities following notification. Security/guard personnel shall follow all directives of authorities after notification and contact is made. (Code 1988, § 680.050; Code 1996, § 660.050; Code 2005, § 54-94; Ord. No. 91-7, § 5, 1-28-1991)

Sec. 54-111. Exceptions.

Non-uniformed loss prevention personnel employed for the sole purpose of preventing merchandise loss through shoplifting or employee theft shall, during normal business hours, be exempt from this article.

(Code 1988, § 680.060; Code 1996, § 660.060; Code 2005, § 54-95; Ord. No. 91-7, § 6, 1-28-1991)

Secs. 54-112—54-135. Reserved.

DIVISION 2. PERMIT

Sec. 54-136. Required.

(a) It shall be unlawful for any person to engage in or carry on the operation of a security service or offer security/guard services of any type without first obtaining a permit from the police chief prior to obtaining a city business license.

(b) It shall be the responsibility of the security service to notify the city of any changes in the application on the first weekday after the change is made.

(Code 1988, § 680.010; Code 1996, § 660.010; Code 2005, § 54-121; Ord. No. 91-7, § 1, 1-28-1991)

Sec. 54-137. Application.

(a) The application for a security services permit form as provided by the police department shall contain the following:

- (1) Name, address and phone number of business.
- (2) Name, address and phone number of local owner/operator.
- (3) Names, addresses, phone numbers and descriptions of all security guard

employees of the business that will or may be involved in patrol either on foot or in vehicle, whether in uniform or not, which during such employment would require them to move about from place to place (business to business) within the city limits, or because of employment requirements would cause them to move about on the same property in a manner that would attract attention, such as moving through and out of buildings or through parking lots.

- (4) Uniform and/or identifying clothing information, as applicable.
- (5) Vehicle-identifying information.
- (6) Other pertinent information as required in special instances, such as, but not limited to, firearms information and/or whether security guard will be armed or not.

(b) Uniformed security guards are exempted from this section only when the hours of employment are during the respective establishment's normal business hours and personnel are restricted to on-premises security only.

(c) An individual seeking a security services permit to engage in providing security or guard services under this section, shall submit their fingerprints to the state highway patrol, criminal justice information services division, along with appropriate fees. The state highway patrol, criminal justice information services division will compare the subject's fingerprints against its criminal file and submit the fingerprints to the Federal Bureau of Investigation for a comparison with national criminal history records. The results of the Federal Bureau of Investigation check will be returned to the state highway patrol, criminal justice information services division, which will disseminate the state and national results to City of Branson, Police Department.

(d) The police chief shall render a fitness determination based upon the results of the criminal background check. In rendering a fit-

ness determination, the chief will decide whether the subject of record has been convicted of or is under pending indictment for:

- (1) A crime which bears upon their ability or fitness to serve in that capacity.
- (2) Any felony or a misdemeanor which involved force or threat of force, controlled substances, or was a sex-related offense.
- (3) Enumerated disqualifiers.
- (e) Failure to submit fingerprints under this section may result in denial of a permit. Individuals currently commissioned as a peace officer by the state peace officer standards and training commission shall be exempt from the requirements of subsection 54-137(c).

(f) As used in this section, the following terms apply:

- (1) "*Owner*" means an individual holding ten-percent or greater financial interest or voting interest in a business applying for a security services permit with the City of Branson;
- (2) "*Operator*" means an individual employed by the business applying for a security services permit who is held accountable for the profits and losses of the business and who also runs the day-to-day operations of the business applying for a security services permit with the City of Branson;
- (3) "*Security guard*" means an individual employed with certain powers to protect life and property on/in a designated area, whether in uniform or not, whether armed or unarmed.

(Code 1988, § 680.020; Code 1996, § 660.020(A); Code 2005, § 54-122; Ord. No. 91-7, § 2, 1-28-1991; Ord. No. 93-7, 2-8-1993; Ord. No. 2024-0005, § 2, 1-23-2024; Ord. No. 2024-0018, § 2, 2-27-2024)

Sec. 54-138. Denial, suspension or revocation.

The police chief may refuse issuance of a security service permit if he finds during such criminal history/background check any convic-

tions of a crime, excluding minor traffic violations of the applicant, provided that the chief shall comply with section 1-17, or any history not in keeping with the best interest of the city. The police chief may suspend or revoke a security permit if it is determined that a criminal conviction has occurred any time following issuance of such permit, or activity of an undesirable nature not in keeping with the best interest of the city occurs.

(Code 1988, § 680.020; Code 1996, § 660.020(B); Code 2005, § 54-123; Ord. No. 91-7, § 2, 1-28-1991; Ord. No. 93-7, 2-8-1993)

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Chapter 58

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***State law references**—Criminal procedure, RSMo 540.010, crimes and punishment, RSMo 556.011; criminal code, RSMo 556.011 et seq.; arrest records, RSMo 610.100 et seq.; law enforcement agency records, RSMo 610.200; authority of city to enact police regulations, RSMo 77.570; municipal authority to regulate and abate, RSMo 67.398, 77.530; weed and trash removal, RSMo 71.285.

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- Sec. 58-123. Possession of controlled substances.
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- Sec. 58-127. Unlawful possession of drug paraphernalia by a qualifying patient.
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OFFENSES AND NUISANCES

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ARTICLE I. IN GENERAL

Sec. 58-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Agent means a person entrusted with another's business. A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between principal and third persons.

Archery device means any crossbow, longbow, recurve or compound bow.

Concealed weapon means a weapon not discernible by ordinary observation; one that is hidden from ordinary observation on a person or in such close proximity to a person as to be under his convenient control.

Deadly weapon means any knife (excluding an ordinary pocket knife with no blade longer than four inches), dagger, dirk, stiletto, switchblade, blackjack, knuckles (instrument consisting of finger rings or guards made of a hard substance) or any other instrument that is designed or adapted for the purpose of inflicting physical injury by striking a person, and which is readily capable of lethal use.

Debris means the remains of anything broken down, destroyed, or in ruins.

Dismantled vehicle means any vehicle missing significant body parts, including, but not limited to, hood, fender, cab, door, window glass, or trunk lid.

Drip line (tree drip line) means the area defined by the outermost circumference of a tree canopy where water drips from and onto the ground.

Firearm means any weapon that is designed or adapted to expel a projectile by the action of an explosive.

Graffiti means the defacing, damaging or destroying by the spraying of paint or marking of

ink, chalk, dye or other similar substances on public or private buildings, structures, properties, and places without the consent of the owner.

Inoperable vehicle means any self-propelled vehicle that is abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junked vehicle means any vehicle that has no resale value or use, except as a source of parts or scrap.

Mercantile establishment means any mercantile place of business in, at or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale.

Merchant means any person who is engaged in the business of selling goods, wares and merchandise in a mercantile establishment.

Motor vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Noxious or toxic odor, dust vapor, fume, or mist means any airborne substance, whether visible or invisible and whether particulate or not, which causes nausea, vomiting, dizziness, headaches, eye or skin irritation, or other physical injury to person.

Noxious weeds means plants, such as poison ivy, poison oak, ragweed, or other poisonous plants or plants detrimental to health, kudzu, and those weeds prohibited as per the current state department of agriculture listing.

Patronizing prostitution means a person patronizes prostitution if:

- (1) Pursuant to a prior understanding, he gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with him or with another;
- (2) He gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with him or with another; or
- (3) He solicits or requests another person to engage in sexual conduct with him or with another, or to secure a third person

to engage in sexual conduct with him or with another, in return for something of value.

Portable storage unit is, in the context of this article, any structure or container used for temporary, short-term storage of residential or commercial furniture, equipment, or other materials, and that can be moved and transported by towing or carry.

Premises means a plot, parcel of land, easement or public way, including any structures thereon.

Private property means any place or property within the corporate limits of the city which is not owned or controlled by a public governmental body and which at the time is not open to the public. The term "private property" includes property which is owned publicly or privately, and includes any property in which the actor does not have a possessory interest.

Projectile weapon means any archery device, pellet gun, BB gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious injury or death by striking or piercing a person.

Property of another means any property in which the actor does not have a possessory interest.

Prostitution means engaging or offering, or agreeing to engage in, sexual conduct with another person in return for something of value to be received by the person or by a third person.

Public place means any place or property owned publicly or privately which, at the time, is open to the public.

Recreational vehicle (RV) means any vehicle designed, constructed or substantially modified so that it may be used for the purposes of temporary housing, including therein sleeping and/or eating facilities that are either permanently attached to the vehicle or attached to a unit that is securely attached to the vehicle.

Refuse means, in the context of this article, collectively that which is garbage, trash, rubbish or debris.

Residential property means any property or portion thereof which is within a residential district, or used exclusively for residential purposes.

Rubbish means, with the exception of garbage, combustible and noncombustible materials, paper, rags, cardboard, wood and wood shavings, rubber, leather, plastics, tree branches, yard trimmings, dead plant material, furniture, appliances, bedding, used construction materials, metal cans, metals, mineral matter, glass, crockery, and other similar materials, and includes the residue from the burning of wood, fossil fuels, and other combustible materials.

Sexual conduct. "Sexual conduct" occurs when there is:

- (1) Sexual intercourse, which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results;
- (2) Deviate sexual intercourse, which means any sexual act involving the genitals of one person and the mouth, hand, tongue or anus of another person; or
- (3) Sexual contact, which means any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party.

Shoplifting means wrongful taking or stealing of property, merchandise or money and any other wrongful appropriation of property, merchandise or money.

Something of value means any money or property, or any token, object or article exchangeable for money or property.

Sound-producing device means any radio, television, phonograph, musical instrument, stereo, electronic device or any other sound-producing device or instrument, including, but not limited to, speakers or speaker systems, amplifiers, microphones and amplifiers, whether portable, stationary, mobile or otherwise and whether mounted permanently or temporarily affixed in a vehicle or mounted/positioned

permanently or temporarily inside or outside a dwelling or other building or structure or carried/transported by any means.

Stealing. A person commits the offense of stealing if he appropriates property or services of another with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion.

Trailer means any vehicle without motor power designed to carry property or passengers on its own structure and for being drawn by a self-propelled vehicle, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Trash means any and all materials defined as rubbish.

Unlicensed vehicle means any vehicle that does not display a valid license and current inspection sticker, as required by the state in which the vehicle is legally registered in order to operate said vehicle upon public roads. This excludes vehicles provided for sale by an appropriately licensed seller of new or used vehicles that are stored and displayed on property so permitted for such sale.

Vegetation means any plant or plant species, taken as a whole.

Vehicle means any mechanical device on wheels, excluding motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, and motorized wheelchairs operated by handicapped persons. The term "vehicle" includes, but is not limited to, commercial and noncommercial motor vehicles, dismantled vehicles, inoperable vehicles, junked vehicles, motor vehicles, recreational vehicles, watercrafts, trailers, and unlicensed vehicles.

Weeds, in the context of this chapter and unless otherwise stated, means vegetation generally recognized as wild or undesirable, whether found upon residentially or commercially zoned properties.

Wrongful taking includes stealing of merchandise or money and any other wrongful appropriation of merchandise or money.

Yard means an open and unoccupied space on a building site, and, except as otherwise provided in this chapter, open and unobstructed from the ground to the sky.

Yard, rear, means that portion of the yard, on the same parcel with a building, between the rear building line and the rear parcel line, for the full width of the parcel but not including steps, unenclosed balconies, and unenclosed porches. (Code 1988, §§ 205.200, 220.040, 230.020; Code 1996, §§ 205.080, 205.120, 205.250, 205.330; Code 2005, §§ 58-61, 58-97, 58-152, 58-201, 58-261, 58-293; Ord. No. 463, § 1, 2-9-1976; Ord. No. 88-55, § 3, 7-11-1988; Ord. No. 91-6, § 1, 1-14-1991; Ord. No. 91-32, § 1, 7-8-1991; Ord. No. 92-48, § 1, 8-10-1992; Ord. No. 98-084, § 1, 7-13-1998; Ord. No. 99-001, § 1, 1-11-1999; Ord. No. 99-024, §§ 3, 4, 2-8-1999; Ord. No. 99-959, § 6, 10-11-1999; Ord. No. 2004-046, 4-12-2004; Ord. No. 2011-022, § 1, 2-8-2011; Ord. No. 2012-0173, § 1, 10-23-2012; Ord. No. 2016-0193, § 2, 12-13-2016; Ord. No. 2020-0051, § 2, 3-19-2020; Ord. No. 2020-0052, § 2, 3-23-2020; Ord. No. 2020-0053, § 2, 5-4-2020; Ord. No. 2020-0072, § 2, 7-28-2020; Ord. No. 2021-0036, § 3, 4-13-2021)

Secs. 58-2—58-30. Reserved.

ARTICLE II. OFFENSES AGAINST ADMINISTRATION OF JUSTICE

Sec. 58-31. Assault of law enforcement officer.

A person commits the offense of assault of a law enforcement officer if:

- (1) He attempts to cause or recklessly causes physical injury to a law enforcement officer;
- (2) With criminal negligence, he causes physical injury to a law enforcement officer by means of a deadly weapon;

- (3) He purposely places a law enforcement officer in apprehension of immediate physical injury;
 - (4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to a law enforcement officer; or
 - (5) He knowingly causes or attempts to cause physical contact with a law enforcement officer without the consent of the law enforcement officer.
- (Code 1996, § 205.010; Code 2005, § 58-31)

State law reference—Similar provisions, RSMo 565.002, RSMo 565.054, RSMo 565.056.

Sec. 58-32. Tampering with witness; tampering with victim.

(a) A person commits the offense of tampering with a witness if, with purpose to induce a witness or a prospective witness in an official proceeding to disobey a subpoena or other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he:

- (1) Threatens or causes harm to any person or property;
- (2) Uses force, threats or deception;
- (3) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
- (4) Conveys any of the foregoing to another in furtherance of a conspiracy.

(b) A person commits the offense of victim tampering if, with purpose to do so, he prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:

- (1) Making any report of such victimization to any police officer, or state, local or federal law enforcement officer or prosecuting agency, or to any judge.
- (2) Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof.

- (3) Arresting or causing or seeking the arrest of any person in connection with such victimization.
 - (c) Persons convicted under this section shall not be eligible for parole.
- (Code 1996, § 205.020; Code 2005, § 58-32)
- State law reference**—Similar provision, RSMo 575.270.

Sec. 58-33. Escape or attempted escape from custody.

A person commits the offense of escape from custody or attempted escape from custody if, while being held in custody after arrest for any crime, he escapes or attempts to escape from custody.

- (Code 1996, § 205.030; Code 2005, § 58-33)
- State law reference**—Similar provisions, RSMo 575.195, RSMo 575.200.

Sec. 58-34. Interference with city officials.

(a) No person shall obstruct, delay or interfere with any officer, agent, or employee of the city in the performance of their official and designated duties.

(b) Such agent or employee of the city shall include, but not be limited to, the mayor, board, or any city employees.

- (Code 1988, § 215.050; Code 1996, § 205.050; Code 2005, § 58-34; Ord. No. 410, §§ 1—3, 12-13-1971)

State law reference—Obstructing government operations, RSMo 576.030.

Sec. 58-35. Resisting or interfering with arrest.

(a) No person shall resist or interfere with arrest if, knowing that a law enforcement officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

- (1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

(b) This section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

(c) 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.

(Code 1996, § 205.055; Code 2005, § 58-35; Ord. No. 99-024, § 1, 2-8-1999; Ord. No. 99-959, § 4, 10-11-1999)

State law reference—Resisting or interfering with arrest, RSMo 575.150.

Sec. 58-36. False impersonation.

A person commits the offense of false impersonation if he:

(1) Falsely represents himself to be a public servant with purpose to induce another to submit to his pretended official authority or to rely upon his pretended official acts and:

- a. Performs an act in that pretended capacity; or
- b. Causes another to act in reliance upon his pretended official authority; or

(2) Falsely represents himself to be a person licensed to practice or engage in any profession for which a license is required

by the laws of this state with purpose to induce another to rely upon such representation and:

- a. Performs an act in that pretended capacity; or
- b. Causes another to act in reliance upon such representation.

(Code 1996, § 205.060; Code 2005, § 58-36)

State law reference—False impersonation, RSMo 575.120.

Sec. 58-37. False reports.

(a) A person commits the offense of making a false report if he knowingly:

- (1) Gives false information to a law enforcement officer or any person for the purpose of implicating another person in a crime;
- (2) Makes a false report to a law enforcement officer that a crime 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.

(b) It is a defense to a prosecution under subsection (a) of this section that the actor 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.

(Code 1996, § 205.070; Code 2005, § 58-37)

State law reference—Similar provisions, RSMo 575.080.

Sec. 58-38. Failure to identify to a police officer.

(a) A person commits an offense if he intentionally refuses to give his name, residence address, or date of birth to a police officer upon request when lawfully detained by the officer.

(b) A person commits an offense if he intentionally gives a false or fictitious name, residence address, or date of birth to a police officer who has:

- (1) Lawfully arrested the person;
- (2) Lawfully detained the person; or
- (3) Requested the information from a person that the police officer has good cause to believe is a witness to a criminal offense.
- (c) Conduct that constitutes an offense under this section also constitutes an offense under state law.

(Ord. No. 2021-0092, § 2, 8-10-2021)

State law reference—Similar provision, RSMo 38.02.

Secs. 58-39—58-60. Reserved.

ARTICLE III. OFFENSES AGAINST PUBLIC PEACE

Sec. 58-61. Building units as separate premises.

If a building or structure is divided into separately occupied units, such units are separate premises.

(Code 1996, § 205.080; Code 2005, § 58-61)

Sec. 58-62. Peace disturbance.

A person commits the offense of peace disturbance if:

- (1) He unreasonably and knowingly disturbs or alarms another person by:
 - a. Loud noise;
 - 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;
 - c. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out;
- d. Fighting; or
- e. Creating a noxious and offensive odor.

- (2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person 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.

(Code 1996, § 205.090; Code 2005, § 58-62)

State law reference—Similar provisions, RSMo 574.010.

Sec. 58-63. Private peace disturbance.

A person commits the offense of private peace disturbance if he is on private property and unreasonably and purposely causes alarm to another person on the same premises by:

- (1) Threatening to commit a crime against any person; or
- (2) Fighting.

(Code 1996, § 205.100; Code 2005, §§ 58-61—58-63)

State law reference—Similar provisions, RSMo 574.010, 574.020, 574.030.

Sec. 58-64. Urination or defecation in public.

It shall be unlawful for any person, male or female, to urinate or defecate in a place open to public view.

(Code 1996, § 205.105; Code 2005, § 58-64; Ord. No. 99-024, § 2, 2-8-1999)

Sec. 58-65. Harassment.

A person commits the offense of harassment if he, without good cause, engages in any act with the purpose to cause emotional distress to another person.

(Code 1996, § 205.110; Code 2005, § 58-65; Ord. No. 2020-0039, § 2, 3-19-2020)

State law reference—Similar provisions, RSMo 565.090, RSMo 565.091.

Secs. 58-66—58-89. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

DIVISION 1. GENERALLY

Sec. 58-90. Domestic assault.

A person commits the crime of domestic assault if the act involves a family or household member, including any child who is a member of the family or household, as defined in RSMo 455.010, and:

- (1) The person attempts to cause or recklessly causes physical injury to such family or household member;
- (2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument;
- (3) The person purposely places such family or household member in apprehension of immediate physical injury by any means;
- (4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member;
- (5) The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
- (6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

State law reference—Similar provisions, RSMo 565.074, RSMo 565.076.

Sec. 58-91. Assault.

A person commits the offense of assault if:

- (1) He attempts to cause or recklessly causes physical injury to another person;

- (2) With criminal negligence, he causes physical injury to another person by means of a deadly weapon;
- (3) He purposely places another person in apprehension of immediate physical injury;
- (4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;
- (5) He knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
- (6) He knowingly causes physical contact with an incapacitated person, as defined in RSMo 475.010, which a reasonable person, who is not incapacitated, would consider offensive or provocative.

(Code 1996, § 205.140; Code 2005, § 58-91)

State law reference—Similar provisions, RSMo 565.054, RSMo 565.056.

Sec. 58-92. Unlawful assembly.

A person commits the offense of unlawful assembly if he knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal state or federal laws with force or violence.

(Code 1996, § 205.150; Code 2005, § 58-92)

State law reference—Similar provisions, RSMo 574.040.

Sec. 58-93. Rioting.

A person commits the offense of rioting if he knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal state or federal laws with force or violence, and thereafter, while still so assembled, does violate any of such laws with force or violence.

(Code 1996, § 205.160; Code 2005, § 58-93)

State law reference—Similar provisions, RSMo 574.050.

Sec. 58-94. Refusal to disperse.

A person commits the offense of refusal to disperse if, being present at the scene of an unlawful assembly, or at the scene of a riot, he knowingly fails or refuses to obey the lawful

command of a law enforcement officer to depart from the scene of such unlawful assembly or riot. (Code 1996, § 205.170; Code 2005, § 58-94)

State law reference—Similar provisions, RSMo 574.060.

Secs. 58-95, 58-96. Reserved.

Sec. 58-97. Firearms prohibitions; possession and use of weapons.

(a) No person shall discharge any firearm or projectile weapon within the corporate limits of this city. The provisions of this subsection shall not apply to the discharge of a firearm within an indoor shooting range, which is established and maintained for such purposes, under conditions approved and authorized by a special use permit.

(b) Carrying of concealed weapons prohibited.

(1) No person who has been issued a concealed carry endorsement under RSMo 571.101—571.121, or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry either concealed or in plain view a firearm in any building or portion of a building owned, leased or controlled by the city.

(2) Signs shall be posted at each entrance of a building entirely owned, leased or controlled by the city stating that carrying of firearms is prohibited. Where the city owns, leases or controls only a portion of a building, signs shall be posted at each entrance to that portion of the building stating that carrying of firearms is prohibited.

(3) This subsection (b) shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges, or private dwellings owned, leased or controlled by the city.

(4) Any person violating this subsection (b) may be denied entrance to the building or ordered to leave the building. Any city employee violating this subsection (b)

may be disciplined. No other penalty shall be imposed for a violation of this subsection (b).

(5) No person who has been issued a certificate of qualification prior to July 2004 which allows the person to carry a concealed firearm by authority of that certificate, shall be allowed to carry either concealed or in plain view a firearm in any building or portion of a building owned, leased or controlled by the city.

(c) No person shall carry within the corporate limits of this city any deadly weapon as described above, nor shall a person possess or carry any firearm or projectile weapon on or about his person in any concealed manner upon any street, highway, public thoroughfare or property open to the public, unless granted a concealed carry endorsement pursuant to RSMo 571.010—571.121.

(d) No person shall carry upon any street, highway, public thoroughfare or property open to the public a firearm or projectile weapon while such weapon or firearm is loaded with ammunition or projectiles or other devices or is so equipped or rigged in a manner which would allow such firearm or projectile weapon the capability of the discharge of such ammunition or projectiles, unless granted a concealed carry endorsement pursuant to RSMo 571.010—571.121.

(e) No part of this section shall be applicable to law enforcement personnel, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction. Personnel, including members of the federal Armed Forces and persons working in the capacity of an approved security service, while in legitimate service, shall be allowed to carry, maintain and otherwise possess loaded firearms, provided possession and use of such firearms is a necessary and required function of their activity or employment.

(f) Persons indicated within subsection (e) of this section shall adhere to all state and federal laws governing the possession and use of firearms, deadly weapons, and projectile weapons and nothing in this section shall imply that persons so indicated are exempt from local, state and federal laws applicable to the use and possession of firearms and other weapons as indicated or from local, state and federal laws applicable to the general duties, responsibilities, and requirements set forth pertaining to the use and possession of firearms and other weapons.

(g) No person shall exhibit in the presence of one or more persons any weapon readily capable of lethal use in an angry or threatening manner. (Code 1988, § 225.080; Code 1996, § 205.200; Code 2005, § 58-97; Ord. No. 91-32, §§ 1—8, 7-8-1991; Ord. No. 99-001, § 1, 1-11-1999; Ord. No. 99-024, §§ 3, 4, 2-8-1999; Ord. No. 2004-046, 4-12-2004; Ord. No. 2012-0173, § 1, 10-23-2012)

State law references—Similar definitions, RSMo 571.010; similar provisions, RSMo 571.020, RSMo 571.030.

Sec. 58-97A. Discharge of archery devices allowed under certain conditions; deer hunting.

This section is an exception to section 58-97 and establishes the regulations of hunting within the city during archery hunting season as set by the state department of conservation.

- (1) The discharging or releasing of arrows from archery devices within the city is limited to hunting as permitted under the terms of this section.
- (2) The archery hunt authorized by this section shall conform to all state regulations as defined by the state department of conservation and shall be limited to whitetail deer only.
- (3) *Archery deer hunt permit.* Each person who participates in the archery hunt within the city shall hold a permit issued by the city. Permits are valid for one calendar year.
 - a. Permit requirements:
 1. Be over the age of 18 years.
 2. Provide a copy of a photo ID.

3. Provide a copy of a current state archery permit.
 4. Provide a copy of a state bow hunters safety course certificate of completion as provided by the state department of conservation.
 5. Provide a copy of a property owner permission form. The owner, lessee or agent may revoke such consent at any time by notifying the city's financing department in writing.
 6. Sign off on the rules of the city archery deer hunt.
- b. The hunter shall notify abutting property owners or property residents that the hunt has been permitted. This notification shall include the hunting season dates.
 - c. The permit fee will be in the amount provided in the city fee schedule.
 - d. Valid permit and property owner permission form must be carried with the hunter at all times during hunting.
- (4) *Specific actions prohibited.*
- a. It shall be unlawful for any person to discharge any archery device:
 1. From across any street, sidewalk, road, highway or park.
 2. At any person, vehicle, dwelling, house, church, school, park or any building.
 3. Within 150 yards of any church, school, or park property line.
 4. Within 30 yards of any dwelling, building, structure, or vehicle on property being hunted.
 5. At such an angle or distance as to land within 75 feet of public

or private property other than the property on which the hunt has been authorized.

(5) *Discharge restrictions.*

- a. All hunting shall be conducted from an elevated position that is at least ten feet in height and faces the interior of the property. The elevated position (deer stand) shall be located in such a way as to direct arrows towards the interior of the property.
- b. No person, without lawful authority, or without the expressed or implied consent of the owner, lessee or his agent, shall enter any building, or enter upon any parcel of ground in the city; or being upon the property of another, shall fail or refuse to leave such property when requested to do so by owner, lessee, or person in-charge of said property.
- c. No hunting is authorized on tracts of land under two acre in area, except that adjacent property owners may combine their parcels to satisfy the discharge restrictions as authorized by the property owner permission form.
- d. No person shall possess, consume or be under the influence of alcohol or any other controlled substance while engaged in hunting activities within the city.

(6) *Deer retrieval and cleaning.*

- a. Any hunter obtaining a valid permit shall follow the subsequent retrieval requirements for the killing or injuring of deer while hunting:
 - 1. Make a reasonable search to retrieve the deer and take it into his possession. This does not authorize the act of trespassing or any other violation of this Code.
 - 2. Immediately notify any property owner, other than the specific property owner who

previously authorized the hunt, of the fact that an injured or dead deer is or might be located on his property.

- 3. Obtain permission to enter the property of any property owner upon which an injured or dead deer is located prior to engaging in a reasonable search and retrieval of the deer.
- b. Any hunter obtaining a valid permit shall follow the following cleaning requirements for the successful harvesting of deer while hunting:
 - 1. Report the hunter's name, city archery deer hunt permit number, sex of the deer, and the location of the harvest within two business days by calling the police department.
 - 2. Follow all state department of conservation guidelines regarding field dressing and processing the animal.
 - 3. Shall not field dress the deer in a public or conspicuous location.

(7) *Suspension/revocation of permit.*

- a. Upon issuance of a ticket under this section by the police department, the permit shall be suspended.
- b. Upon conviction for a ticket issued under this section, the permit shall be revoked. If a not guilty verdict is found, the permit shall be reinstated.
- c. At any time if any permit requirements, as outlined in this section, becomes void the permit shall be revoked.
- d. The city administrator may suspend or revoke the permit issued hereunder at any time for any violation of the rules and regulations of the city archery deer hunt.
- (8) *Special facilitated hunts on federally owned lands.* The board of aldermen, by

resolution, may authorize a special archery hunt on federal lands that are situated within city limits. Such resolution would authorize the federal agency responsible for management of the federal land, when acting in concert with the Missouri Department of Conservation, to host and select participants consistent with the following:

- a. Provide facilitated hunts for the following hunters:
 1. Youth hunters, under the age of 18.
 2. Mobility impaired hunters, as determined by the Missouri Department of Conservation.
 3. Military veteran hunters.
- b. Any of the hunters described above, will be exempt from the following city requirements when participating in a special facilitated hunt on federally owned lands:
 1. Be over the age of 18.
 2. Provide a copy of a photo ID.
 3. Provide a copy of a current state archery permit.
 4. Provide a copy of a state bow hunters safety course certificate of completion as provided by the state department of conservation.
 5. Provide a copy of the property owner permission form.
 6. Sign off on the rules of the city archery deer hunt.
 7. Be required to notify the abutting property owners or property residents that the hunt is taking place.
 8. Be required to apply for and receive an archery deer hunt permit, pay any permit fee, or carry a permit and property owner permission form during the hunt.

- c. Discharge restrictions requiring hunting to be conducted from an elevated position that is at least ten feet in height and faces the interior of the property will not be required during a special facilitated hunt on federally owned lands.
- d. Any resolution passed by the board of aldermen authorizing a special facilitated hunt on federally owned lands will be valid for a period of not more than 12 months from the date the resolution is passed.

(Code 2005, § 58-97A; Ord. No. 2012-0173, § 1, 10-23-2012; Ord. No. 2023-0054, § 2, 5-23-2023)

Sec. 58-98. Regulations for mailboxes and other structures.

(a) *Encroachment on sidewalks prohibited.* No person shall cause, permit or allow any mailbox or other structure to be constructed, erected, placed or maintained so as to obstruct, encroach upon, or impede in any manner the use of any public sidewalk within the city.

(b) *Liability of owners and occupants.* All owners and occupants, or their agents, of any property with a mailbox or other structure encroaching upon any right-of-way, except as set forth in this subsection, shall maintain such mailbox or other structure only as a special private use of the right-of-way, with primary liability to the public for injuries or property damage arising out of the presence of the mailbox or other structure on the right-of-way which in any manner constitutes a hazard, dangerous condition or nuisance. The foregoing provisions of this subsection shall not apply to poles or anchors or other equipment of any electric utility which occupies the right-of-way pursuant to a franchising contract or ordinance which specifies other liability or indemnity provisions.

(c) *No mailboxes on four-lane highways, expressways, arterials or on streets with a speed limit of 35 miles per hour or greater.* No person shall cause any mailbox or other receptacle for the receipt of mail, magazines, or other printed material to be constructed, erected or placed upon the right-of-way abutting any four-lane

state or federal highway, or abutting any four-lane expressway or arterial roadway in the city or any street with a posted speed limit of 35 miles per hour or greater. Any mailbox serving a residential or commercial property, located on such right-of-way on the date this section is enacted, may remain in place until the property is sold to a new owner.

(Code 1996, § 205.215; Code 2005, § 58-98; Ord. No. 2000-077, § 1, 4-24-2000; Ord. No. 2005-049, § 1(205.215), 4-25-2005)

Sec. 58-99. Reserved.

Sec. 58-100. Littering or posting signs on right-of-way or other public property.

(a) No person shall throw, place or cause to be placed or thrown upon any street, alley, avenue, sidewalk, parking lot, other public thoroughfare, city park land, or right-of-way within the city any glass, glass bottles, wire, tacks, leaves, tree limbs, other landscape clippings, cans, scrap metal, boards, sticks, stones, dirt, animal carcasses, garbage, trash, refuse, paper, or rubbish of any kind, nature or description.

(b) Any person who has accidentally or by reason of accident dropped from his person or any vehicle any such substance upon any public thoroughfare or right-of-way shall immediately make all reasonable efforts to remove such substance therefrom.

(c) No person shall post, place, attach or affix any sign or notice upon public property or right-of-way without prior approval of the city.

(Code 1988, § 225.130; Code 1996, § 205.230; Code 2005, § 58-100; Ord. No. 90-8, §§ 1, 2, 3-26-1990; Ord. No. 99-959, § 5, 10-11-1999)

State law reference—Littering, RSMo 577.070.

Secs. 58-101—58-120. Reserved.

DIVISION 2. CONTROLLED SUBSTANCES AND PARAPHERNALIA

Sec. 58-121. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Close proximity means within 500 feet on a straight line commencing at the property lines nearest to each other.

Controlled substance means a drug, substance, or immediate precursor in Schedules I through V listed in RSMo 195.005—195.425, Comprehensive Drug Control Act of 1989.

Deliver and *delivery* mean the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale.

Drug means:

- (1) Substances recognized as drugs in the Official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;
- (2) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;
- (3) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and
- (4) Substances intended for use as a component of any article specified in this definition. It does not include devices or their components, parts or accessories.

Drug paraphernalia.

- (1) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise

introducing into the human body a controlled substance or an imitation controlled substance in violation of RSMo 195.005—195.425, Comprehensive Drug Control Act of 1989. It includes, but is not limited to:

- a. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- b. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances.
- c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance.
- d. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances.
- e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances.
- f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances.
- g. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances.
- i. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances.
- j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances.
- k. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body.
- l. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 2. Water pipes.
 3. Carburetion tubes and devices.
 4. Smoking and carburetion masks.
 5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
 6. Miniature cocaine spoons and cocaine vials.
 7. Chamber pipes.
 8. Carburetor pipes.

- 9. Electric pipes.
 - 10. Air-driven pipes.
 - 11. Chillums.
 - 12. Bongs.
 - 13. Ice pipes or chillers.
 - m. Substances used, intended for use, or designed for use in the manufacture of a controlled substance.
 - (2) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
 - a. Statements by an owner or by anyone in control of the object concerning its use.
 - b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance.
 - c. The proximity of the object, in time and space, to a direct violation of RSMo 195.005—195.425, Comprehensive Drug Control Act of 1989.
 - d. The proximity of the object to controlled substances or imitation controlled substances.
 - e. The existence of any residue of controlled substances or imitation controlled substances on the object.
 - f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons he knows, or should reasonably know, intend to use the object to facilitate a violation of RSMo 195.005—195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of RSMo 195.005—195.425 shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
 - g. Instructions, oral or written, provided with the object concerning its use.
 - h. Descriptive materials accompanying the object which explain or depict its use.
 - i. National or local advertising concerning its use.
 - j. The manner in which the object is displayed for sale.
 - k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
 - l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
 - m. The existence and scope of legitimate uses for the object in the community.
 - n. Expert testimony concerning its use.
- Ephedrine* means all forms of ephedrine, ephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.
- Manufacture* means the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term "manufacture" does not include the preparation or compounding of a controlled substance or an imitation controlled substance by an individual for his own use or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:
- (1) By a practitioner as an incident to his administering or dispensing of a controlled

- substance or an imitation controlled substance in the course of his professional practice; or
- (2) By a practitioner under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

Methamphetamine precursor drug means any drug or substance as described in RSMo 195.246 or 195.248.

Patient means, as the case may be:

- (1) The individual for whom a drug is prescribed or to whom a drug is administered; or
- (2) The owner or the agent of the owner of the animal for which a drug is administered; provided that the prescribing or administering referred to in subsections (1) and (2) of this definition is in good faith and in the course of professional practice only.

Pharmacist means an individual currently licensed by the state board of pharmacy to practice the profession of pharmacy in this state, and, where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist.

Place of display means any museum, library, school or other similar public place upon which business is not transacted for a profit.

Practitioner means a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research.

Premises means a business establishment and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of patrons.

Premises open to minors means any business establishment which sells its wares or merchandise to minors or which permits minors to enter into its place of business.

Prescription means a written order, and, in cases of emergency, a telephone order, issued by a practitioner in good faith in the course of his professional practice to a pharmacist for a drug for a particular patient, which specifies the date of its issuance, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

Production includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance.

Pseudoephedrine means all forms of pseudoephedrine, pseudoephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

Sell means to knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not.

Simulated drugs and simulated controlled substances mean any products which identify themselves by using a common name or indicate by label or accompanying promotional material that the product simulates the effect of a controlled substance or drug.

Somnifacient and *stimulating* have the meaning attributable in standard medical lexicons.

Warehouseman means a person who, in the usual course of business, stores drugs for others lawfully entitled to possess them and who has no control over the disposition of such drugs, except for the purpose of such storage.

Wholesaler means a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.
 (Code 1988, § 235.050; Code 1996, § 205.420(A); Code 2005, § 58-121; Ord. No. 557, §§ 1—4, 1-28-1980; Ord. No. 99-024, § 6, 2-8-1999; Ord. No. 2012-0034, § 1, 3-13-2012; Ord. No. 2019-0107, § 2, 8-27-2019)

State law reference—Definitions for Narcotic Drug Act, RSMo 195.010.

Sec. 58-122. Sale and display prohibited.

No person other than a licensed pharmacist or druggist, duly registered practicing physician, licensed veterinarian, licensed dentist or podiatrist shall manufacture, sell, prescribe, administer, dispense or compound any narcotic drug or any compound drug mixture of which a narcotic drug is a component part, or any barbiturate, except upon prescription of a duly licensed physician, and it shall be unlawful for any person to sell, offer to sell, dispense, give away or display any drug paraphernalia or simulated controlled substance or simulated drug in or upon any premises which:

- (1) Are premises open to minors, unless the drug paraphernalia, simulated controlled substances or simulated drugs are kept in such a part of the premises that is not open to view by minors or to which minors do not have access; or
- (2) Are in close proximity to a school; provided, however, that display of any such items at a place of display for educational or scientific purposes shall not be unlawful. Members of the police force shall be exempted from these provisions when acting within their official capacity.

(Code 1988, § 235.050; Code 1996, § 205.420(B); Code 2005, § 58-122; Ord. No. 557, §§ 1—4, 1-28-1980; Ord. No. 99-024, § 6, 2-8-1999; Ord. No. 2023-0053, § 2, 5-23-2023)

Sec. 58-123. Possession of controlled substances.

Except as authorized by RSMo 195.005—195.425, it is unlawful for any person to possess

or have under his control a controlled substance. For the sake of this section, controlled substance does not include marijuana.

(Code 1988, § 235.050; Code 1996, § 205.420(C); Code 2005, § 58-123; Ord. No. 557, §§ 1—4, 1-28-1980; Ord. No. 99-024, § 6, 2-8-1999; Ord. No. 2023-0053, § 2, 5-23-2023)

State law reference—Similar provisions, RSMo 579.015.

Sec. 58-124. Possession of drug paraphernalia.

It is unlawful for any person to use, or to possess 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. For the sake of this section, prohibitions on drug paraphernalia does not include drug paraphernalia for marijuana.

(Code 1988, § 235.050; Code 1996, § 205.420(D); Code 2005, § 58-124; Ord. No. 557, §§ 1—4, 1-28-1980; Ord. No. 99-024, § 6, 2-8-1999; Ord. No. 2023-0053, § 2, 5-23-2023)

State law reference—Similar provisions, RSMo 579.074.

Sec. 58-125. Prohibition of sale of methamphetamine precursor drugs.

(a) *General.* It shall be illegal for any person to sell, deliver or distribute ephedrine, pseudoephedrine or any other methamphetamine precursor drugs, except as set forth in the specific exceptions contained in this article.

(b) *Exceptions.* The below shall be excepted from the provisions of subsection (a) of this section:

- (1) Ephedrine, pseudoephedrine or other methamphetamine precursor drugs may be sold by a state-licensed pharmacist.
- (2) Ephedrine, pseudoephedrine or other methamphetamine precursor drugs may be distributed by a licensed physician within the physician's office, clinic, nursing home or other licensed healthcare facility.

- (3) This section regulating ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal ephedra or extracts of herbal ephedra.
- (4) Any compound, mixture, or preparation, which is in liquid or liquid-filled gel capsule form, containing any detectable quantity of ephedrine, pseudoephedrine, methamphetamine precursor drug.

(c) *Prima facie evidence.* It shall be prima facie proof that a substance is regulated by this section if the substance is contained in its original packaging and is labeled as being ephedrine, pseudoephedrine or other methamphetamine precursor drugs.

(d) *Reporting theft of methamphetamine precursor drugs.*

- (1) All thefts, shortages, disappearances, miscounts or other losses of ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall be reported to the police department of the city within 24 hours of discovery.
- (2) Any person selling ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall report any difference between the quantity of the aforementioned drugs shipped and the quantity received to the police department of the city within 24 hours of discovery.

(e) *Injunctive relief.* The city may seek injunctive relief against any person who is in violation of this section.

(Code 2005, § 58-125; Ord. No. 2012-0034, § 1, 3-13-2012; Ord. No. 2020-0094, § 2, 8-25-2020)

Sec. 58-126. Unlawful possession of marijuana by a qualifying patient.

It is unlawful for any qualifying patient with a qualified patient identification card to:

- (1) Possess marijuana not cultivated in the state.

- (2) Possess marijuana or marijuana-infused products without a qualified patient identification card in their possession.
- (3) Possess more than a 60-day supply of marijuana as prescribed by the state department of health and senior services.
(Ord. No. 2019-0107, § 2, 8-27-2019)

Sec. 58-127. Unlawful possession of drug paraphernalia by a qualifying patient.

It is unlawful for any qualifying patient with a qualified patient identification card to use, or to possess 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 marijuana or a marijuana-infused product without a qualified patient identification card in their possession.
(Ord. No. 2019-0107, § 2, 8-27-2019)

Sec. 58-128. Residential cultivation, medical and recreational marijuana.

(a) To the extent permitted by state law, marijuana for medicinal purposes may be cultivated in a residential structure, provided:

- (1) The structure is the primary residence of a primary caregiver or qualifying patient and the marijuana is grown solely for the use of the qualifying patient who resides there or who is under the care of the primary caretaker.
- (2) The residence has operating systems to assure that the emissions of fumes or vapors connected with the cultivation are not allowed out of the building, or if the residence is in a multifamily building, that such fumes and vapors are not allowed into any other residence.
- (3) There are no more than six flowering marijuana plants, six nonflowering marijuana plants (over 14 inches tall), and six clones (plants under 14 inches

tall) per qualifying patient and no more than 24 flowering plants for more than one qualifying patient.

- (4) That marijuana plants may not be visible by normal, unaided vision from a public place.
- (5) The primary caregiver or the qualifying patient, who is the primary resident, has an identification card issued by the department to allow for cultivation of marijuana plants.

(b) To the extent permitted by state law, marijuana for recreational purposes may be cultivated in a residential structure provided:

- (1) Cultivation is limited to six flowering, six non-flowering, and six clone plants and must be for non-commercial use.
- (2) The residence has operating systems to assure that the emission of fumes or vapors connected with the cultivation is not allowed out of the building, or if the residence is a multifamily building, that such fumes and vapors are not allowed into any other residence.
- (3) The cultivation must comply with the requirements of the department and the person cultivating must have obtained a registration card from the department.
- (4) The plants and any marijuana produced by the plants in excess of three ounces must be kept at one private residence and in a locked place.
- (5) Not more than 12 flowering marijuana plants may be kept in or on the grounds of a private residence at one time.
- (6) That marijuana plants may not be visible by normal, unaided vision from a public place.
- (c) No manufacturing of marijuana products shall occur in any residence.
- (d) The cultivation must comply with the security and other requirements of state law and the rules of the division of health and senior services.

(e) The resident shall notify the city clerk of such cultivation, including providing proof of eligibility, on a form provide by the city clerk, so that law enforcement and code officials will be aware that the cultivation is lawfully taking place.

(Ord. No. 2023-0053, § 2, 5-23-2023)

Editor's note—Ord. No. 2023-0053, § 2, adopted May 23, 2023, deleted former §§ 58-128 and 58-129, which pertained to unlawful possession of drug paraphernalia by a primary caregiver and unlawful possession of marijuana by person approved for cultivation, which derived from Ord. No. 2019-0107, § 2, adopted Aug. 27, 2019.

Sec. 58-129. Residential marijuana consumption.

(a) Persons may consume marijuana in their private residence, or in the residence of another with permission, but may not dispense or smoke marijuana in such a manner that the marijuana smoke or odor, exits the residence. If marijuana smoke or odor is capable of being detected by a person of ordinary senses (including, but not limited to, any police officer) beyond the property line of single-family home or outside of the owned or leased premises of a duplex or multifamily unit there shall be a rebuttable presumption that this section has been violated. In a multifamily or similar dwelling, medical marijuana may not be dispensed or consumed in any common area.

(b) Violations of this provision shall be punishable by a fine not to exceed \$100.00.

(Ord. No. 2023-0053, § 2, 5-23-2023)

Sec. 58-130. Illegal possession and transportation of marijuana and marijuana paraphernalia.

(a) No person under the age of 21 years may possess, use, ingest, inhale, transport, deliver with or without consideration, marijuana or marijuana paraphernalia, except that qualified patients under the age of 21 years may possess medical marijuana or paraphernalia to the extent allowed by law.

- (1) If the violation of this section involves three ounces of marijuana or less, the penalty shall be punishable by a fine not to exceed \$100.00.

(b) No person may possess more than three ounces of recreational marijuana nor more than allowed by law of medical marijuana.

(c) *Illegal growing:*

- (1) Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing more than six flowering marijuana plants, six nonflowering marijuana plants (over 14 inches tall), and six clones (plants under 14 inches tall); or
- (2) Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing marijuana plants without being registered with the department of health and senior services for cultivation of marijuana plants; or
- (3) Failing to keep in excess of three ounces of such plants in a locked space not visible by normal unaided vision from a public place; or
- (4) Growing or possessing such plants by a person under the age of 21 years.

(d) *Sale to persons under 21.* No person shall deliver to, transfer to, or sell to persons 21 years of age or younger marijuana or marijuana paraphernalia.

(e) *Penalties.* Subject to the limitations of this section, a person who possesses not more than twice the amount of marijuana allowed pursuant to this subsection, produces not more than twice the amount of marijuana allowed pursuant to this subsection, delivers without receiving any consideration or remuneration to a person who is at least 21 years of age not more than twice the amount of marijuana allowed by this subsection, or possesses with intent to deliver not more than twice the amount of marijuana allowed by this subsection:

- (1) For a first violation, is subject to an ordinance violation punishable by a fine not exceeding \$250.00 and forfeiture of the marijuana;
- (2) For a second violation and subsequent violations, is subject to an ordinance

violation punishable by a fine not exceeding \$500.00 and forfeiture of the marijuana;

- (3) A person under 21 years of age is subject to a fine not to exceed \$250.00. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine; and
- (4) In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15.00 or the minimum wage in effect at the time of judgment.

(Ord. No. 2023-0053, § 2, 5-23-2023)

Sec. 58-131. Possession or consumption prohibited on certain property.

It shall be unlawful for a person to be in possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correctional facility.

(Ord. No. 2023-0053, § 2, 5-23-2023)

Sec. 58-132. Public consumption of marijuana.

(a) Smoking marijuana in a location where smoking tobacco is prohibited.

(b) Consumption of marijuana in a public place, other than in an area authorized by the city for that purpose is prohibited.

(c) Restaurants serving food which contains marijuana must register with the city and provide notice on all public entrances and on all menus that certain food contains marijuana.

(d) Violation of this section shall be punishable by a fine not to exceed \$100.00 for the first offense and not more than \$500.00 as well as confiscation of the marijuana for subsequent offenses.

(Ord. No. 2023-0053, § 2, 5-23-2023)

Sec. 58-133. Public nuisances.

(a) The smell or noxious odor emitted from smoking, consumption, or cultivation of marijuana by a person possessing a valid state-issued license shall be treated as a public nuisance. Any odors emitted from cultivating or consuming marijuana shall be treated as a public nuisance.

(b) It shall be unlawful from any person or entity to cultivate marijuana in such a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if cultivating marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare, or interferes with reasonable enjoyment of life and property.

(Ord. No. 2023-0053, § 2, 5-23-2023)

Secs. 58-134—58-150. Reserved.**ARTICLE V. OFFENSES AGAINST PROPERTY*****Sec. 58-151. Property damage.**

A person commits the offense of property damage if:

- (1) He knowingly damages property of another; or
- (2) He damages property for the purpose of defrauding an insurer.

(Code 1996, § 205.240; Code 2005, § 58-151)
State law reference—Property damage, RSMo 579.100, RSMo 579.120.

Sec. 58-152. Stealing and shoplifting.

(a) *Stealing or shoplifting of property or services.* No person shall:

- (1) Shoplift property of another either without his consent or by means of deceit.
- (2) Steal property or services of another either without his consent or by means of deceit or coercion.

***State law references**—Robbery, arson, burglary and related offenses, RSMo Ch. 569; stealing and related offenses, RSMo Ch. 570.

(b) *Detention of suspect by merchant.* Any merchant, his agent or employee, who has reasonable grounds or probable cause to believe a person has committed or is committing a wrongful taking of merchandise or money from a mercantile establishment, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating whether there has been a wrongful taking of such merchandise or money. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the merchant, his agent or employee criminally or civilly liable to the person so detained.

(c) *Presumption upon finding unpurchased merchandise upon suspect.* Any person willfully concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise as defined by this chapter. The finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be evidence of reasonable grounds and probable cause for the detention, in a reasonable manner and for a reasonable length of time, for such person by a merchant, or his agent or employee, in order that recovery of such merchandise may be effected. Any such reasonable detention shall not be deemed to be unlawful, or render such merchant or his agent or employee criminally or civilly liable.

(Code 1988, § 230.020; Code 1996, § 205.250; Code 2005, § 58-152; Ord. No. 463, §§ 1—5, 2-9-1976; Ord. No. 88-55, § 3, 7-11-1988; Ord. No. 91-6, § 1, 1-14-1991; Ord. No. 98-084, § 1, 7-13-1998; Ord. No. 99-959, § 6, 10-11-1999)

State law reference—Stealing and related offenses, RSMo Ch. 570.

Secs. 58-153, 58-154. Reserved.**Sec. 58-155. Trespass.**

No person shall knowingly enter unlawfully or knowingly remain unlawfully in a building or inhabitable structure or upon real property if the

real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:

- (1) Actual communication to the actor; or
- (2) Posting in a manner reasonably likely to come to the attention of intruders.

(Code 1996, § 205.290; Code 2005, § 58-155; Ord. No. 99-024, § 5, 2-8-1999)

State law reference—Similar provisions, RSMo 569.140.

Sec. 58-156. Throwing offensive matter on streets.

Any person who shall in this city throw from the windows or upper story of any building into any street, or upon any sidewalk, any water, slop, rubbish or filth of any kind, or any other thing calculated to endanger the comfort or safety of persons passing along such streets or sidewalks, shall be in violation of this section.

(Code 1988, § 210.010; Code 1996, § 280.010; Code 2005, § 58-156; Ord. No. 22, § 4, 9-22-1913; Ord. No. 2011-008, § 1, 1-11-2011)

Sec. 58-157. Graffiti.

No person shall:

- (1) Apply graffiti upon walls, rocks, bridges, buildings, fences, gates, other structures, trees and other real and personal properties within the city.
- (2) Write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree, or other real or personal property, any inscription, figure, or mark of the type commonly known and referred to as graffiti.

(Code 2005, § 58-157; Ord. No. 2011-006, § 1, 1-11-2011)

Secs. 58-158—58-180. Reserved.

ARTICLE VI. OFFENSES AGAINST MORALS

DIVISION 1. GENERALLY

Sec. 58-181. Sexual misconduct.

A person commits the offense of sexual misconduct if he:

- (1) Exposes his genitals under circumstances in which he knows that his conduct is likely to cause affront or alarm.
- (2) Has sexual contact in the presence of a third person under circumstances in which he knows that such conduct is likely to cause affront or alarm.

(Code 1996, § 205.320; Code 2005, § 58-181)

State law reference—Similar provisions, RSMo 566.093, RSMo 566.095.

Secs. 58-182—58-201. Reserved.

DIVISION 2. PROSTITUTION AND RELATED OFFENSES

Sec. 58-202. Prostitution.

A person commits the offense of prostitution if he performs an act of prostitution.

(Code 1996, § 205.340; Code 2005, § 58-202)

State law reference—Similar provisions, RSMo 567.025.

Sec. 58-203. Patronizing prostitution.

A person commits the offense of patronizing prostitution if he patronizes prostitution.

(Code 1996, § 205.350; Code 2005, § 58-203)

State law reference—Similar provisions, RSMo 567.030.

Sec. 58-204. Sex of parties no defense.

In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

- (1) Both persons were of the same sex; or
- (2) The person who received, agreed to receive or solicited something of value was a

male and the person who gave or agreed or offered to give something of value was a female.

(Code 1996, § 205.360; Code 2005, § 58-204)

State law reference—Similar provisions, RSMo 567.040.

Sec. 58-205. Prostitution houses deemed public nuisances.

(a) Any room, building or other structure regularly used for sexual contact for pay or any unlawful prostitution activity prohibited by this division is a public nuisance.

(b) The attorney general, circuit attorney or prosecuting attorney may, in addition to all criminal sanctions, prosecute a suit in equity to enjoin the nuisance. If the court finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for sexual contact for pay or unlawful prostitution activity, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one year.

(c) All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the court.

(d) Appeals shall be allowed from the judgment of the court as in other civil actions.

(Code 1996, § 205.370; Code 2005, § 58-205)

State law reference—Similar provisions, RSMo 567.080.

Secs. 58-206—58-230. Reserved.

DIVISION 3. PORNOGRAPHY

Sec. 58-231. Promoting obscenity.

A person commits the offense of promoting pornography for minors or obscenity if, knowing its content or character, he:

- (1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain;

- (2) Produces, presents, directs or participates in any obscene performance for pecuniary gain;
- (3) Promotes or possesses with the purpose to promote any pornographic material for minors for pecuniary gain;
- (4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or
- (5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

(Code 1996, § 205.380; Code 2005, § 58-231)
State law reference—Similar provisions, RSMo 573.030.

Sec. 58-232. Possession of child pornography.

A person commits the crime of possession of child pornography if, knowing of its content and character, such person possesses any obscene material that has a child as one of its participants or portrays what appears to be a child as an observer or participant of sexual conduct.

(Code 1996, § 205.390; Code 2005, § 58-232)
State law reference—Similar provisions, RSMo 573.037.

Sec. 58-233. Furnishing pornographic materials to minors.

A person commits the offense of furnishing pornographic material to minors if, knowing its content and character, he:

- (1) Furnishes any pornographic material for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor;
- (2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such

performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

- (3) Furnishes, produces, presents, directs, or participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

(Code 1996, § 205.400; Code 2005, § 58-233)
State law reference—Similar provisions, RSMo 573.040.

Sec. 58-234. Public display of explicit sexual material.

A person commits the offense of public display of explicit sexual material if he knowingly:

- (1) Displays publicly explicit sexual material; or
- (2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.

(Code 1996, § 205.410; Code 2005, § 58-234)
State law reference—Similar provisions, RSMo 573.060.

Secs. 58-235—58-261. Reserved.

ARTICLE VII. NOISE

Sec. 58-262. Prohibited acts.

(a) No person shall willfully, maliciously or knowingly disturb any congregation or other assembly set for religious worship or other such lawful assembly or worship, including, but not limited to, school, town or other bona fide, legitimate meetings and assemblies.

(b) It shall be unlawful for any person to disturb the peace, interrupt, or otherwise disrupt the orderly progress of any meeting of the board, or any other board, department, agency, committee or commission of the city, nor shall any person who has been declared out of order by the presiding officer at such meeting resist any request for his removal from such meeting.

(c) Except as otherwise permitted by special event permit, or other action of the board, or as otherwise provided in this Code, it shall be unlawful for any person to play, use or otherwise allow the playing or use of any sound-producing device or allow any other noise source from private property in which the sound emission can be heard beyond the property lines between the hours of 11:00 p.m. and 7:00 a.m. or at any other time in which the sound is of a volume, intensity or duration as to be detrimental to the reasonable comfort of another.

(d) No person shall play, use or otherwise permit or allow the playing or use of any sound-producing device or other noise, including, but not limited to, exhaust/motor noise, to be emitted from a vehicle or any other source while on public property, including streets or other public rights-of-way, which can be heard on any other private or public property other than the location from which the vehicle or other source is located between the hours of 11:00 p.m. and 7:00 a.m. Any sound emitted at a volume, intensity or duration from a vehicle or other source at a level that is detrimental to the reasonable comfort of any individual is unlawful at any time.

(e) Any building, excavation, demolition, alteration or any other construction that creates noise of any type, including, but not limited to, the actual work, related vehicular traffic, etc., that can be heard beyond and/or off the construction or work site other than between the hours of 7:00 a.m. and 6:00 p.m. is unlawful. Exception: If the city health, building or other authorized city department deems it necessary, due to public health or safety, permission may be granted on a temporary, monitored basis.

(f) Yelling, shouting, hooting, whistling, singing or any other verbalization conducted at such a level at any time or any place that annoys or disturbs the quiet, comfort or repose of any person in the vicinity is not permitted.

(g) Any ambulance, law enforcement, fire or other emergency personnel or other persons authorized by the city, state or federal government during the performance of their official duty shall be exempted from the provisions of this article.

(h) Except as otherwise permitted by special event permit, or other action of the board, or as otherwise provided in this Code, it shall be unlawful for any person to play, use or otherwise allow the playing, or use of any sound-producing device or allow any other noise source from private property zoned Downtown, in which the sound emission can be heard beyond the property lines or at any time in which the sound is of a volume, intensity or duration as to be detrimental to the reasonable comfort of another. The provisions of this subsection shall not apply to sound emissions from trains or church bells.

(i) It shall be unlawful to operate or use a Jacobs engine brake or other exhaust or engine device without a muffler or with a malfunctioning muffler, as braking power to slow down a vehicle's rate of speed in the city, except in emergencies. For the purpose of this section, a Jacobs engine brake is a hydraulic-electric engine attachment that converts a diesel engine into an air compressor by changing engine exhaust valve operation. Notice of this subsection shall be posted at prominent locations in the city, by an appropriate sign notifying motorists of the passage of this subsection.

(Code 1988, § 220.050; Code 1996, § 205.130; Code 2005, § 58-262; Ord. No. 92-48, §§ 2—12, 8-10-1992; Ord. No. 98-149, § 1, 10-26-1998; Ord. No. 99-002, § 1, 1-11-1999; Ord. No. 99-959, § 7, 10-11-1999; Ord. No. 2001-029, 3-26-2001; Ord. No. 2016-0193, § 2, 12-13-2016)

Secs. 58-263—58-293. Reserved.

ARTICLE VIII. OTHER NUISANCES

DIVISION 1. GENERALLY

Sec. 58-294. Nuisances; general.

(a) *Violation.* It shall be a violation of this article for any person who is the owner, agent, tenant, occupant, or other person in control of property to create, allow, or maintain a nuisance (as described herein) on such property or on public property.

(b) *Nuisances generally.* The following conditions shall constitute nuisances for purposes of this section:

- (1) Any condition or substance on public or private property that is injurious or dangerous to public health or safety.
- (2) Any condition defined as a nuisance in this article or any code adopted by the city or by the state law.
- (3) Any substance that generates, emits, or causes noxious or toxic odor, dust, vapor, fume, or mist.
- (4) Any establishment or structure that generates, emits, or causes any noxious or toxic odor, dust, vapor, fume, mist, or condition.
- (5) Any barn or other place where animal or fowl waste collects in any manner that is not clean and sanitary, or which creates odors (offensive to a person of ordinary sensibilities) that are allowed to escape the premises.
- (6) Any accumulation or deposit of foul, dirty, or polluted water or liquid, including stagnant water that does or could afford harborage for the breeding of mosquitoes.
- (7) Any accumulation of material that does or could afford harborage of rats, mice, snakes, or other vermin.
- (8) Any condition or substance that may generate, transmit, or promote disease, or that may present a safety hazard to the general public.

(c) *Rubbish.* Any violation of any code adopted by the city, as such section may be amended from time to time, shall constitute a nuisance for purposes of this section, except as otherwise specifically provided in this section.

(d) *Weeds and vegetation.* The following conditions shall constitute nuisances for purposes of this section:

- (1) Grass, weeds, or overgrown vegetation that exceeds seven inches in height, within 50 percent or more of a yard, or which otherwise obstructs the clear sight triangle

as shown in the city design criteria for public improvement projects. However, the following conditions shall not be considered a nuisance:

- a. All or any part of any parcel or tract of land that is a natural forest, within the meaning of this Code, or a woodland meadow.
- b. All or any part of any parcel or tract of land that cannot be mowed using conventional mowing or weed removal equipment due to steepness of grade or rocky terrain, or which is otherwise vacant.

However, unimproved land, which falls under this exception, shall be maintained in accordance with this article from the centerline of an abutting street or alley by mowing at least five feet beyond the edge of the street or road surface, curb line or sidewalk, whichever is greater.

- (2) Any noxious weeds.
- (3) Any dead or dying tree, limb, bush or brush that constitutes a hazard to the safety of persons or of property, private or public, including a safety hazard that obstructs the line of sight of a motor vehicle driver, bicyclist, or pedestrian at a street intersection, a hazard that could interfere with the passage of motor vehicles, bicycles, or pedestrians, on any right-of-way, or a tree that harbors insects or disease that constitutes a potential threat to other trees.
- (4) Any accumulation of grass clippings, leaves, chipped brush, weeds, chipped foliage or shrub cuttings or clippings, or vegetable waste, unless contained within a composting bin located within the rear yard and at least ten feet from any property line. However, in order to not be considered a nuisance herein, such composting bins shall be constructed and maintained in such a manner as to prevent the emission of a noxious odor, and such that they do not provide bedding or shelter

for rats, mice, or other pests, nor be in violation of any other provisions of the Code.

(e) *Vehicles.* The following conditions shall constitute nuisances for purposes of this section:

- (1) Any vehicle that is displayed for the principal purpose of sale that is either:
 - a. Not located on a private residential driveway; or
 - b. Not located on property that is legally licensed and permitted by the city for the sale of vehicles.
- (2) Any vehicle that is:
 - a. Causing damage or degradation to the parking area or access route to the parking area, including, but not limited to, ruts in the soil, dead grass or damage to trees, shrubs or other vegetation.
 - b. Causing damage while parked in an area within the drip line of a tree.
 - c. Abandoned or inoperable and the area where it is parked has grass, weeds or overgrown vegetation that exceeds seven inches in height or which otherwise obstructs the clear sight triangle as shown in the city design criteria for public improvement projects.
- (3) Any vehicle that is dismantled or inoperable, unless the vehicle is stored within an enclosed building, except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on residential property, provided that the work is completed within seven consecutive calendar days by the owner of the property and that the vehicle is registered to that owner.
- (4) Any commercial vehicle having more than six wheels or more than two axles, except when present for the purposes of loading and unloading, and which is present for less than five days.

(f) *Graffiti.* Graffiti as defined in this chapter is declared a nuisance.

(g) *Open storage.* The following conditions shall constitute nuisances for purposes of this section:

- (1) The open storage on residential property of items or materials other than yard furniture, neatly stacked firewood, garden or yard tools, toys, or usable building materials. However, the open storage of usable building materials is permitted on such property if the open storage is for less than 30 days, the building materials are for use on such premises, the building materials are not stored against any structure, and the building materials are neatly stacked and stacked to a height not to exceed four feet from ground level.
- (2) Any of the following items that remain on such residential property for longer than 48 hours, in any outside area that can be viewed from a ground location off the premises: any appliance manufactured for primarily indoor use, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for primarily indoor use, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap metal, tires, tire rims, water heaters, or any other debris.

(Code 2005, § 58-294; Ord. No. 2011-022, § 1, 2-8-2011; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 58-295. Enforcement and abatement.

(a) *Enforcement.* The police chief shall be responsible for enforcement of this division.

(b) *Notice and order.* When a nuisance as described in this division exists, the police chief may declare a nuisance exists and give written notice to the owner, agent, tenant, occupant, or other person in control of the property, and order such nuisance be removed or abated. Such notice and order must be given to the property's owner.

- (1) Any notice and order given pursuant to this section shall be given by one of the following means:
 - a. Personal service by leaving it at the addressee's usual place of abode with an occupant who is over the age of 15 years.

- b. Mailing it via regular first class mail to the addressee. If the mailing is not returned, such notice shall be deemed effective.
 - c. When notice cannot be given by one of the means outlined above, then such notice shall be posted on or about the premises described in the notice.
 - d. There shall be a rebuttable presumption that any notice sent via regular mail pursuant to this section is received within two business days of its mailing. There shall also be a rebuttable presumption that any notice posted on the premises is received at the end of 24 hours after the posting thereof.
 - e. If none of those above-stated methods are successful, the police chief may cause such notice and removal order to be published in the newspaper for two consecutive weeks.
- (2) Such notice and removal order shall, at a minimum:
- a. Declare that a nuisance exists;
 - b. Describe the condition that constitutes such nuisance;
 - c. Order the removal or abatement of such condition not less than ten days from the date of receipt of such notice;
 - d. Describe the location of the property where the nuisance exists, using the street address rather than a legal description when reasonably possible to do so;
 - e. State that if the owner or occupant fails to begin removing or abating the nuisance within the time allowed or pursue the removal or abatement of such nuisance without unnecessary delay, then the police chief may cause the condition that constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes, and that such cost shall be a personal debt of the property owner;
 - f. State that if the owner or occupant of such property fails to begin removing or abating the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited for violating this article;
 - g. State that if the addressee wishes to contest the finding of a nuisance and removal order, he must file a written request for appeal with the police chief, which must be received within seven days from the date the addressee received the notice and order.
- (c) *Hearing.* Any owner, agent, tenant, occupant, or other person aggrieved by the police chief's notice and order may request in writing within five business days a public hearing as provided in chapter 30 of this Code for administrative hearings. That hearing date shall be set within 30 days of the request.
- (d) *Abatement.* Following the appeal process and the issuance of the police chief's final order of abatement.
- (1) If the owner, agent, tenant, occupant, or other person in control of the property fails to begin removal or abatement of the nuisance in accordance with the notice and order of abatement within the time allowed, or upon failure to pursue the removal and abatement of such nuisance without unnecessary delay, the police chief may cause the condition that constitutes the nuisance to be removed or abated.
- (2) If the police chief causes a nuisance to be removed or abated in accordance with this division and has sent notice and a

removal order to the owner in accordance herewith, he shall certify the cost of such removal and abatement (which may include reasonable fees for the city's costs in administering this article) to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

- (3) The collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorney's fees.

(e) *Warrant.* The police chief may enter upon private property for inspection or for the purpose of inspecting or removing any nuisance in accordance with this article. If any person refuses to allow entry onto his private property, the police chief may obtain an administrative search warrant in accordance with this Code and proceed in accordance therewith.

(f) *Emergency abatement.* When the police chief determines that a nuisance is an imminent threat to the life, health, or safety of the public, he shall not be required to comply with the requirements of this section prior to abatement of such nuisance.

(Code 2005, § 58-295; Ord. No. 2011-022, § 1, 2-8-2011; Ord. No. 2017-0171, § 2, 12-12-2017; Ord. No. 2020-0034, § 2, 3-10-2020)

Sec. 58-296. Strictest provisions to control in event of conflict.

The strictest provisions shall control in the event of conflict of this article, the remainder of this Code and any adopted codes.

(Code 2005, § 58-296; Ord. No. 2011-022, § 1, 2-8-2011)

Sec. 58-297. False advertising.

(a) *Prohibited.* It shall be unlawful for any person, acting for himself or as agent or employee of another, to advertise the sale, provision or rental of any goods, services, or other items of commerce, by any advertisement that makes any false statement or false representation.

(b) *Advertising goods that are not available.* It shall be unlawful for any person, acting for himself or as agent or employee of another, to advertise the sale, provision or rental of any goods, services, or other items of commerce for a specific price if the person or his employer does not have such item available at the price contained in the advertisement, at that time.

(c) *Correction of advertising.* If an advertisement is true when placed, but later becomes false because the goods, services, or other items of commerce are no longer available at such price, such person, acting for himself or as agent or employee of another, shall remove or correct such advertising.

(d) *Rain checks.* If a perishable food item is not available due to weather, suppliers or other items beyond the seller's control, the seller or his agent or employee may give the buyer a "rain check" or "due bill" allowing the buyer to purchase the advertised goods at a future date for the advertised price.

(e) *Free or discount offers in connection with sales solicitation.* It shall be unlawful for any person, acting for himself or as agent or employee of another, to advertise a free, discounted, or specifically priced lodging certificate, gift award, theater ticket, admission to any tourist attraction, premium, or discount in conjunction with any sales solicitation unless:

- (1) The lodging certificate, gift award, theater ticket, admission to any tourist attrac-

- tion, premium, discount, or specific price is offered unconditionally and without any requirement that the recipient listen to or watch a sales solicitation or presentation; or
- (2) Disclosure appears on the face of the advertisement in letters no less than half the size of, and immediately adjacent to, the word "free" or "discount," or specifically stated price, stating that "Conditions Apply."

(f) *Identification of business involved in sales solicitation as tourist center.* It shall be unlawful for any person, acting for himself or as agent or employee of another, engaged in the procurement of prospective customers for sales solicitation, presentation, or substantially similar activity to identify or advertise itself by means of any sign including, without limitation, the words "tourist information," "tourist center," "visitor information," or "information center" unless:

- (1) The identity of the business is disclosed on the face of the sign in letters of sufficient size to be clearly readable to the public, but in no event less than 50 percent of the average size of the sign text, whichever is larger; and
- (2) The words "sales solicitation" are placed and remain in an unobscured manner, in at least clearly readable three-quarter-inch block letters, either on the doors to the building, or on the exterior wall of the building immediately adjacent to the door; or, if the business operates from a booth within another business establishment, such words shall be printed on the front panel of the booth.

(g) *Violations.* Any violation of this section by an employee or agent shall be deemed a violation by the employee or agent and by the business entity on whose behalf the employee or agent acts.

(h) *Enforcement.* Enforcement of this section shall be the responsibility of the police department.

(Code 1988, § 240.080; Code 1996, § 205.460; Code 2005, § 6-1; Ord. No. 96-6, §§ 1—6, 1-8-1996; Ord. No. 99-831, § 1, 6-28-1999; Ord. No. 2020-0034, § 2, 3-10-2020)

State law reference—False or misleading advertising, RSMo 413.105.

Secs. 58-298—58-330. Reserved

DIVISION 2. SMOKE-FREE

Sec. 58-331. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Alternative nicotine product means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

City park means all grounds, recreational facilities, undeveloped properties and other property placed under the control, management and direction of the parks and recreation department, with the exception of the Branson Lakeside RV Park.

E-cigarette means any electronic oral device, such as one composed of a heating element, battery, or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term "e-cigarette" shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.

Enclosed area means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, when not fully open, whether temporary or permanent.

Open space means any piece of land that is undeveloped and is accessible to the public.

Place of employment means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, auditoriums, meeting rooms, classrooms, employee cafeterias, hallways, elevators, temporary offices, and vehicles to which the public is invited. A private residence is a "place of employment" when used as a child care, adult day care, or health care facility.

Private residence means a building or portion thereof including, but not limited to, single-family homes, duplex units, apartments, hotels, motels, timeshare units, or condominium units in which a person resides for 30 consecutive days or more.

Public place, enclosed, means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, convention facilities, enclosed common areas, enclosed shopping malls, health care facilities, hotels and motels, laundromats, museums, public transportation vehicles and facilities, reception areas, restaurants, retail establishments, retail stores, schools, spas, sports arenas, theaters, and waiting rooms. A private residence is a "public place" when used as a child care, adult day care, or health care facility.

Public place, outdoor, means an area to which the public is invited or in which the public is permitted, including but not limited to, bleachers, golf courses, grandstands, open spaces, outdoor seating and serving areas, playgrounds, pools, recreational areas, serving areas, shelters, and outdoor shopping malls.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco,

marijuana or plant product intended for inhalation, in any manner or in any form. The term "smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this division.

Smoking lounge means a retail business used primarily for the sale of tobacco products and accessories and where more than 70 percent of the volume of trade or business carried on there is that of the blending of tobaccos or sales of tobaccos, cigarettes, e-cigarettes, pipes, cigars or smoking sundries and in which the sale of other products is incidental. The term "smoking lounge" does not include a tobacco department within a larger commercial establishment such as a department store, discount store or retail stores used primarily for the sale of smoking materials. A smoking lounge shall satisfactorily report on an annual basis to the city on a form prescribed by the city, the revenue generated from the sale of tobacco as a percentage of annual gross revenue.

Tobacco products means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco but does not include alternative nicotine products, or vapor products.

Vapor product means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any alternative nicotine product or tobacco product.

(Ord. No. 2014-0103, § 2(58-126), 10-28-2014; Ord. No. 2019-0075, § 2, 6-25-2019; Ord. No. 2019-0107, § 2, 8-27-2019)

Sec. 58-332. Where smoking shall not be regulated.

Notwithstanding any other provision of this division to the contrary, smoking shall not be prohibited in the following areas within the city:

- (1) Private residences.
- (2) Not more than 20 percent of hotel and motel rooms, as defined by city zoning regulations, and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under this division.
- (3) Smoking lounges as defined by this division and provided that smoke does not infiltrate into areas where smoking is otherwise prohibited. This exemption shall not apply to any business that is established for the purpose of avoiding compliance with this division.
- (4) Outdoor places of employment except those areas covered by the provisions of the division.
- (5) Outdoor patio spaces of restaurants.
- (6) Outside entrances from patios, balconies and decks to rooms of hotels, motels, timeshare units or condominium units in which a person resides for 29 consecutive days or less.
- (7) Golf courses.

(Ord. No. 2014-0103, § 2(58-127), 10-28-2014)

Sec. 58-333. Prohibition of smoking in enclosed public places.

Smoking shall be prohibited in all enclosed public places within the city.

(Ord. No. 2014-0103, § 2(58-128), 10-28-2014)

Sec. 58-334. Prohibition of smoking in outdoor public places.

Smoking shall be prohibited in the following outdoor public places within the city:

- (1) Within six feet of outside entrances, operable windows and ventilation systems of

enclosed areas where smoking is prohibited, and public transportation stops.

Exception: In the Downtown District, within four feet of outside entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited, and public transportation stops.

- (2) In city parks, except in designated areas.
(Ord. No. 2014-0103, § 2(58-129), 10-28-2014;
Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 58-335. Prohibition of smoking in enclosed places of employment.

Smoking shall be prohibited in all enclosed places of employment within the city. This prohibition shall be communicated to all prospective employees upon their application for employment.

(Ord. No. 2014-0103, § 2(58-130), 10-28-2014)

Sec. 58-336. Declaration of a nonsmoking area.

(a) Notwithstanding any other provision of this division, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking area. Smoking shall be prohibited in any place in which a sign conforming to the requirements of this division is posted.

(b) All vehicles, facilities, buildings and offices owned and operated by the city are declared nonsmoking places. Smoking usage of any kind within these vehicles and facilities is strictly prohibited.

(Ord. No. 2014-0103, § 2(58-131), 10-28-2014)

Sec. 58-337. Posting of signs and removal of ashtrays.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this division shall:

- (1) Clearly and conspicuously post "No Smoking" signs or the international "No Smok-

ing" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that area.

- (2) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this division at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- (3) Remove all ashtrays from any area where smoking is prohibited by this division, except for ashtrays displayed for sale and not for use on the premises.

(Ord. No. 2014-0103, § 2(58-132), 10-28-2014)

Sec. 58-338. Nonretaliation; nonwaiver of rights.

(a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this division or reports or attempts to prosecute a violation of this division.

(b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

(Ord. No. 2014-0103, § 2(58-133), 10-28-2014)

Sec. 58-339. Enforcement.

- (a) This division shall be enforced by the city.
- (b) An owner, manager, operator, or employee of an enclosed area regulated by this division shall inform a person who is smoking in violation of this division of the appropriate provisions thereof and direct them to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

(c) Any citizen who desires to register a complaint under this division may initiate enforcement with the city.

(Ord. No. 2014-0103, § 2(58-134), 10-28-2014)

Sec. 58-340. Violations and penalties.

(a) A person who smokes tobacco products in an area where smoking is prohibited by the provisions of this division and found guilty of a violation, may be punishable by a fine not exceeding \$25.00. A person who smokes marijuana or a marijuana-infused product in an area where smoking is prohibited by the provisions of this division and found guilty of a violation is subject to the general penalty provisions as provided in section 1-13 of this Code. Notwithstanding all other provisions of law and court rules to the contrary, court costs shall be imposed upon any person found guilty of such violation.

(b) Except as otherwise provided in this division, a person who owns, manages, operates, or otherwise controls an enclosed public place, or enclosed place of employment inside of which violations of this division take place and who are found, or plead guilty of said violation, may be punishable by a fine not exceeding \$25.00. Notwithstanding all other provisions of laws and court rules to the contrary, court costs shall be imposed upon any person found guilty of such violation. Violations taking place in an outdoor public place is the responsibility of the smoker.

(c) Except as otherwise provided, every day any such violation continues shall constitute a separate offense.

(Ord. No. 2014-0103, § 2(58-135), 10-28-2014;
Ord. No. 2021-0058, § 2, 5-25-2021)

Sec. 58-341. Other applicable laws.

This division shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 2014-0103, § 2(58-136), 10-28-2014)

Sec. 58-342. Minors prohibited from purchase or possession of tobacco products, alternative nicotine products or vapor products—Penalties.

- (a) No person less than 18 years of age shall purchase, attempt to purchase or possess tobacco products, alternative nicotine products or vapor

products unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products or vapor products and is in such possession to effect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to subsection (5) of RSMo 407.934.

(b) Any person less than 18 years of age shall not misrepresent his age to purchase cigarettes, tobacco products, and alternative nicotine products or vapor products.

(c) Any person who violates the provisions of this section shall be penalized as follows:

- (1) For the first violation, in addition to the penalties set forth in section 1-13, the person shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated.
- (2) For a second violation and any subsequent violations, in addition to the penalties set forth in section 1-13, the person shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated and shall complete a tobacco education or smoking cessation program, if available.

(Ord. No. 2019-0075, § 2, 6-25-2019)

Sec. 58-343. Distribution or sale of tobacco products, alternative nicotine products or vapor products to minors prohibited.

It shall be unlawful for any person to sell, provide or distribute by any means tobacco products, alternative nicotine products or vapor products to persons under 18 years of age.

(Ord. No. 2019-0075, § 2, 6-25-2019)

Secs. 58-344—58-359. Reserved.

ARTICLE IX. HOTEL TIER PROGRAM

Sec. 58-360. 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. For general definitions and rules of construction applicable throughout this Code see section 1-2:

Calls for service (CFS) means all calls for law enforcement service related to criminal activity and civil disputes, as listed below, or violations of local, state or federal laws, which result in city personnel being dispatched or directed to the hotel. Calls for service include any self-initiated investigation based on the observation(s) of law enforcement when it is determined, based on the greater weight of evidence, that a violation of law has occurred. Law enforcement calls for service shall be measured by one event or occurrence at a hotel. Multiple calls for one event shall count as one call for service. Calls for service at a particular hotel are cumulative regardless of ownership.

- (1) Law enforcement call types that represent a call for service include:
 - a. ABAND - Abandoned Motor Vehicle
 - b. ARSON - Arson
 - c. ASLT - Assault
 - d. BOMB - Bomb
 - e. BURG - Burglary
 - f. CHILD - Endanger Welfare of Child
 - g. CIVIL - Civil Matter
 - h. DD - Domestic Disturbance
 - i. DI - Death Investigation
 - j. DIST - Disturbance
 - k. DRUG - Drug
 - l. FORGERY - Forgery/Counterfeiting
 - m. HAR - Harassment
 - n. KID - Kidnapping
 - o. LAW - State Law Violation
 - p. MIP - Minor in Possession of Intoxicants
 - q. NOISE - Noise Complaint
 - r. ORD - Ordinance Violation
 - s. PROPD - Property Damage

- t. ROB - Robbery
 - u. SOS - Special Operations Squad Activation
 - v. STEAL - Stealing
 - w. SXO - Sexual Offenses
 - x. TERROR - Terrorist Threat
 - y. WAR - Arrest Warrant/Search Warrant
- (2) Calls for service do not include:
- a. Calls originating from the hotel premises but relating to off-premises disturbances observed by a hotel operator or occupant if the activity is not attributable to the hotel.
 - b. Medical calls unrelated to criminal activity.

Calls for service room ratio means the number of calls for service in a calendar year divided by the total number of guest rooms in a hotel. For the purposes of this section, the calls for service room ratio shall be calculated based on the preceding year's calls for service and shall be used to classify a hotel for the current year. The number of rooms for each hotel, used for calculating the calls for service room ratio, will be provided by the finance director through the business licensing process and the health department.

Hotel means any building containing five or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests. Hotel does not mean any hospital, convalescent home, sanitarium or multi-family dwelling. Rooms in a hotel are designed primarily for transient use and usually do not contain permanent living and cooking facilities. For the purposes of this article, hotel and motel shall be synonymous.

Hotel operator means any person who is the proprietor of any hotel whether in the capacity of the owner, lessee, receiver, sub-lessee, franchisee, mortgagee in possession, manager or agent of any of the aforementioned; who offers or accepts payment for rooms, guest rooms, sleeping accommodations, or board and lodging; and who retains

the right of access to, and control of, the guest rooms. Hotel operator shall include any responsible party designated by the hotel operator, as found in this article.

(Ord. No. 2016-0110, § 2, 9-27-2016)

Sec. 58-361. Tier classification procedures.

- (a) *Tier classification.*
 - (1) By January 31, 2017, the police chief shall determine the calls for service room ratio of all hotels located within the city from July 1, 2016 to December 31, 2016. Beginning in 2017, the police chief shall determine the calls for service room ratio by January 31 of the current year.
 - (2) Hotels shall be classified according to the following calls for service room ratio:
 - a. *Tier One* - Less than 0.50 CFS per room per year; or
 - b. *Tier Two* - 0.50 to 1.00 CFS per room per year; or
 - c. *Tier Three* - More than 1.00 CFS per room per year.
 - (3) Any hotel, opening after January 1 of each year, which has not previously operated in the city, shall be presumed to be a tier one until the next year's January 31 evaluation date.
- (b) *Tier notification required.*
 - (1) By January 31 of each year, the police chief shall notify each hotel operator within the city of the calls for service room ratio for that hotel. The notice shall be in writing delivered by first class mail to the address provided by the hotel operator on the business license application, certified mail or other method which provides confirmation of delivery. The police chief shall provide monthly updates to each tier two and tier three hotel operator, listing new calls for service tracked during the period.

- (2) The tier notices shall include:
- a. The street address and description of the hotel sufficient for the accurate identification of the hotel.
 - b. The tier classification assigned to the hotel.
 - c. As allowed by law, data specifying the types of calls for service identified as having occurred at the hotel or on hotel property during the period reviewed, including the incident numbers assigned to such calls for service and the date and time of each call, to allow the hotel operator to understand the basis of the designation.
 - d. The mandated action steps required by this article and the dates for implementation.
 - e. The procedures that the hotel operator may appeal the data which the tier classification is based.

(c) *Tier classification appeal.* Upon notice of tier classification, the hotel operator may file an appeal within 15 days of the notice, for a hearing before the city's administrative hearing officer, as provided for in chapter 30 of this Code.

(Ord. No. 2016-0110, § 2, 9-27-2016)

- (2) An appeal of this decision may be filed pursuant to the provisions for administrative appeals in the Code.

(Ord. No. 2016-0110, § 2, 9-27-2016)

Sec. 58-363. Tier requirements.

(a) *Hotel operators with hotels classified in tier one shall:*

- (1) Maintain a guest log per state statute.
- (2) Ensure posting of registered sex offenders.
 - a. The hotel operator of any hotel shall inquire of any person seeking to become a permanent guest or employee, identification in the form of government-issued identification, including a driver's license, a driver's license permit, military identification or passport either foreign or domestic.
 - b. The hotel operator shall run the name through the National Sex Offender Public Website (NSOPW), as first established by the 2005 Adam Walsh Child Protection and Safety Act.
 - c. The hotel operator shall post in the vicinity of the registration desk, in a manner viewable by the public, an 8½-inch by 11-inch sign indicating the number of sex offenders currently guests or employees of the hotel. Lettering on the sign shall be no less than one inch in height and one-half inch in width.

- (3) At the request of a hotel operator, the Branson Police Department will provide the hotel with advice concerning crime prevention through environmental design standards and general crime prevention methods.

(b) *Hotel operators with hotels classified in tier two shall:*

- (1) Have a hotel operator available on the premises at all times.

- (2) Install and maintain an operational digital surveillance camera with recorder in the lobby, parking lots and indoor and outdoor common areas of the hotel, 24 hours per day, seven days per week. Retention of video shall be for a period of 30 days.
- (3) Ensure a Branson Police Department crime prevention assessment of their property is completed.
- (4) Obtain and document the guest vehicle information including make, model, color and license plate number.
- (5) Ensure all guests or occupants of a room provide a picture ID, which will be photocopied and maintained in the hotel office during the length of stay.
- (6) Follow all conditions of tier one requirements.

(c) *Hotel operators with hotels classified in tier three shall:*

- (1) Follow all conditions of tier one and tier two requirements.
- (2) Provide the police chief with the names of all hotel operators and security staff.
- (3) Ensure that individuals visiting hotel occupants leave by 11:00 p.m.
- (4) Conduct semi-annual training sessions for employees and staff on crime prevention techniques, as assisted by the Branson Police Department.
- (5) Provide 24 hours per day, seven days a week front desk personnel.
- (6) Install and maintain lighting in the lobby, parking lots and indoor and outdoor common areas of the hotel.
- (7) Ensure parking passes are issued and recorded for all vehicles allowed to park on the premises with each pass marked with the issue date and expiration date. All vehicles shall prominently display the pass on the front windshield.
- (8) Maintain a daily key log. Each key found to be missing must have its corresponding lock rekeyed prior to the room being

rented. Each master key found to be missing will require the establishment to rekey all corresponding locks. Records of all rooms being rekeyed shall be maintained by the hotel operator for a period of 12 months.

- (9) Participate in the Branson Police Department hotel crime prevention training.
- (10) Ensure that all persons visiting guests sign in at the front desk. A picture ID shall be required, photocopied and kept on file during guest's stay.

(Ord. No. 2016-0110, § 2, 9-27-2016)

Secs. 58-364—58-385. Reserved.

ARTICLE X. RESERVED*

Secs. 58-386—58-415. Reserved.

***Editor's note**—Ord. No. 2021-0036, § 4, adopted Apr. 13, 2021, repealed Art. X §§ 58-386—58-390 entitled "Communicable Disease," which derived from Ord. No. 2020-0072, § 2, adopted July 28, 2020.

Chapters 59—61

RESERVED

Chapter 62

PARKS, RECREATION AND OTHER CITY FACILITIES*

Article I. In General

Sec. 62-1. Definitions.
Secs. 62-2—62-19. Reserved.

Article II. City Parks, Playgrounds and Campgrounds

Division 1. Generally

Sec. 62-20. Parks and recreation director.
Sec. 62-21. Recreation fund and capital budget.
Secs. 62-22—62-45. Reserved.

Division 2. Advisory Park Board

Sec. 62-46. Established; membership; organization and rules of procedure.
Sec. 62-47. Additional duties.
Secs. 62-48—62-69. Reserved.

Division 3. Use and Operation

Sec. 62-70. Hours of operation.
Sec. 62-71. Vehicular and pedestrian traffic.
Sec. 62-72. Intoxicating beverages.
Sec. 62-73. Animals in parks.
Sec. 62-74. Excessive noise.
Sec. 62-75. Fundraising.
Sec. 62-76. User fees.
Sec. 62-77. Use for business purposes restricted.

***State law references**—Municipal parks and recreation generally, RSMo 90.010 et seq.; regulation of parks and recreation by cities with populations of less than 30,000, RSMo 90.500 et seq.; watercraft regulations, RSMo 306.010 et seq.; park boards, RSMo 90.520.

ARTICLE I. IN GENERAL

Sec. 62-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

City campground means that portion of the city property, either owned or leased, which lies along Lake Taneycomo and is south and west of the southerly right-of-way of the Busines 65 (Lake Taneycomo) bridge, and south and east of the Missouri Pacific Railroad right-of-way.

North Beach Park means that portion of the city property, either owned or leased, which lies west of Lake Taneycomo and south of Roark Creek, more particularly described as follows: East and north of the Boardwalk service road at Branson Landing, the southernmost point being east of the southeast corner of Branson Landing Building 6; thence northerly along and west of Lake Taneycomo to the confluence of Roark Creek; thence, continuing westerly, along and south of Roark Creek to the north end of the parking lot for the Branson Landing commercial area; thence, southerly and easterly along the eastern boundary of said parking lot to the intersection with the Boardwalk service road.

Wharf or dock means any type of structure for the purpose of housing, connecting to, loading, unloading or repairing of boats or any other types of watercraft.

(Code 1988, § 630.010; Code 1996, § 630.010; Code 2005, § 62-2; Ord. No. 481, § 1, 1-24-1977; Ord. No. 2012-0174, § 1, 10-23-2012; Ord. No. 2021-0116, § 2, 10-26-2021)

Secs. 62-2—62-19. Reserved.

ARTICLE II. CITY PARKS, PLAYGROUNDS AND CAMPGROUNDS

DIVISION 1. GENERALLY

Sec. 62-20. Parks and recreation director.

There is created the position of parks and recreation director, who shall be an employee of

the city. The position of parks and recreation director shall be filled by appointment by the city administrator and report to the city administrator. The advisory park board shall work with the parks and recreation director and the parks and recreation director shall be responsible for creating the advisory park board business meeting agenda and for the recording of business meeting minutes.

(Code 1988, § 130.020; Code 1996, § 130.020; Code 2005, § 62-3; Ord. No. 87-8, § 6, 3-9-1987; Ord. No. 99-665, § 1, 4-12-1999)

Sec. 62-21. Recreation fund and capital budget.

The recreation fund and capital budget shall be as provided in chapter 2.

Secs. 62-22—62-45. Reserved.

DIVISION 2. ADVISORY PARK BOARD*

Sec. 62-46. Established; membership; organization and rules of procedure.

(a) There is hereby established within the city an advisory park board to consist of ten members to be appointed by the mayor with the approval of the board.

(b) The members shall be residents of the city, shall hold office for a term of three years, and shall be appointed so as one-third of the advisory park board shall be appointed in any one year, beginning with June 1 of each year. Annually, and after their appointment, the members of the advisory park board shall meet and organize themselves and elect one member thereof as chairperson of the advisory park board, and such other officers as they may deem necessary. Annually, the mayor shall appoint one member of the board to serve as a voting member of the advisory park board.

(c) Vacancies on the advisory park board occasioned by removal, resignation, or otherwise shall be reported to the board and the member's

*State law reference—Park board, RSMo 90.520 et seq.

replacement shall be appointed by the mayor with the approval of the board, to fulfill any unexpired term.

(d) No member so appointed and serving shall receive compensation for such service.

(e) The advisory park board shall hold its meetings at least once monthly to discuss park business as identified within the scope of this chapter. The advisory park board may adopt bylaws and rules and regulations for its orderly conduct and business.

(Code 1988, § 130.010; Code 1996, § 130.010; Code 2005, § 62-41; Ord. No. 87-8, §§ 1—5, 3-9-1987; Ord. No. 99-665, § 1, 4-12-1999)

State law references—Appointment of park board, RSMo 90.520; terms of park board members, RSMo 90.530; filling vacancies in park board, RSMo 90.540; compensation of park board members, RSMo 90.540; organization of park board, RSMo 90.550.

Sec. 62-47. Additional duties.

(a) The advisory park board may make recommendations to the city administrator or the board on all major proposals and propositions for the construction, reconstruction, and improvements of public parks and recreational facilities in the city, including the acquisition of lands for park purposes; or the acquisition or disposal of major recreational equipment and facilities; or existing recreational programs and the initiation of new programs or city-sponsored recreational and cultural programs in the recreational system; on major issues of care and maintenance of the city's park system and facilities; and any other issue relating to the recreation fund that the advisory park board may deem necessary to bring forward to the city administrator or the board.

(b) The advisory park board, with the assistance of volunteers, will be responsible for such things as a community tree management program for the care of trees on public property, comprehensive tree plans, and educational activities related to trees.

(c) In addition to the duties mentioned in this section, the advisory park board shall make recommendations to the city administrator or the board on other matters as may be referred to it by the board or city administrator.

(Code 1988, § 130.040; Code 1996, § 130.040; Code 2005, § 62-43; Ord. No. 87-8, §§ 8, 9, 3-9-1987; Ord. No. 99-665, § 1, 4-12-1999; Ord. No. 2019-0130, § 2, 9-24-2019)

Secs. 62-48—62-69. Reserved.

DIVISION 3. USE AND OPERATION

Sec. 62-70. Hours of operation.

Public parks, playgrounds and other city owned and controlled real estate within the city 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 posted at each public park and playground, and for programs or events as sponsored or approved by the city, or for which a special event permit has been issued. Signs stating park hours shall be posted prominently on each property.

(Code 1988, § 285.020; Code 1996, § 215.020; Code 2005, § 62-5; Ord. No. 92-64, § 2, 9-28-1992; Ord. No. 95-62, § 1, 5-22-1995; Ord. No. 2001-082, 7-23-2001; Ord. No. 2002-053, § 3, 5-28-2002; Ord. No. 2002-075, § 1, 6-24-2002; Ord. No. 2002-084, § 1, 7-8-2002)

Sec. 62-71. Vehicular and pedestrian traffic.

(a) *Unlawful occupancy beyond posted hours.* It shall be unlawful for any person or vehicle to be in a park, playground, or campground outside the posted hours.

(b) *Exceptions.*

- (1) Vehicular traffic through parks shall be permitted at all times for residential and business establishment access.
- (2) Vehicular and pedestrian traffic for campers in city campgrounds shall be permitted at all times.

- (3) Vehicular and pedestrian traffic as part of a current special event permit shall be permitted as allowed by the special event permit.
- (4) Vehicular and pedestrian traffic as part of an approved city-sponsored event or program shall be permitted at all times.
(Code 1988, §§ 285.030, 285.040; Code 1996, §§ 215.030, 215.040; Code 2005, § 62-6; Ord. No. 92-64, §§ 3, 4, 7, 9-28-1992; Ord. No. 95-62, § 1, 5-22-1995; Ord. No. 99-024, § 7, 2-8-1999; Ord. No. 2002-053, § 3, 5-28-2002)

Sec. 62-72. Intoxicating beverages.

No intoxicating beverages shall be consumed or used in any manner in any of the city parks or playgrounds of the city, except as provided in chapter 6 in designated city campgrounds.
(Code 1988, § 285.050; Code 1996, § 215.050; Code 2005, § 62-7; Ord. No. 92-64, § 5, 9-28-1992)

Sec. 62-73. Animals in parks.

No livestock, horses or other animals shall be permitted in any city parks.

Exceptions:

- (1) Domestic pets on a leash and the other end of which is securely held by a person;
- (2) Service animals, as provided in chapter 14, must be harnessed, leashed or tethered while in the park unless these devices interfere with the service animal's work or the person's disability prevents use of these devices;
- (3) Where specifically authorized by the city, such as in a dog park;
- (4) Where the dog is a certified law enforcement canine;
- (5) Written authorization from the city.
(Code 1988, § 285.060; Code 1996, § 215.060; Code 2005, § 62-8; Ord. No. 92-64, § 6, 9-28-1992; Ord. No. 2021-0116, § 2, 10-26-2021)
State law reference—Exemption for service dogs, RSMo 209.150.

Sec. 62-74. Excessive noise.

No loud or excessive noises shall be permitted at any time in any city park, playground, or campground. Events or activities sponsored by the city or for which a special event permit has been issued pursuant to this Code shall be exempted from this section.

(Code 1988, § 285.070; Code 1996, § 215.070; Code 2005, § 62-9; Ord. No. 92-64, § 7, 9-28-1992; Ord. No. 2002-053, § 3, 5-28-2002; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 62-75. Fundraising.

No public or private gathering of groups for the purpose of fundraising shall be permitted in the city parks unless otherwise approved as a special event pursuant to this Code.

(Code 1988, § 285.080; Code 1996, § 215.080; Code 2005, § 62-10; Ord. No. 402, §§ 1—8, 2-22-1971; Ord. No. 548, § 4, 7-9-1979; Ord. No. 2000-159, § 2, 11-13-2000; Ord. No. 2002-053, § 3, 5-28-2002; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 62-76. User fees.

(a) Program and facility fees.

- (1) The establishment of program and facility fees shall be done by the mayor and board. Such fees shall be at the recommendation of the advisory park board and shall be set by a resolution of the board. Every attempt will be made to recover all direct costs of providing the program or for use of the facility.
- (2) The parks and recreation director may use discretion in adjusting rental fees, on a case-by-case basis in order to facilitate usage of the facility in situations where it would be in the financial interest of the city.
- (3) In addition to any established fees, the parks and recreation director may establish damage deposits or cleanup fees as may be deemed reasonable to protect the financial interests of the city.

- (4) The parks and recreation director may waive or reduce a program fee based on demonstrated financial need or hardship.
- (5) The parks and recreation director may establish program fees for activities, events or other programs that may occur throughout the year.

(b) *Branson Lakeside RV Park (city campground).* The establishment of Branson Lakeside RV Park fees shall be done by the mayor and board. Such fees shall be at the recommendation of the advisory park board and shall be set by a resolution of the board.

(Code 1996, § 215.100; Code 2005, § 62-11; Ord. No. 97-006, § 1, 4-28-1997; Ord. No. 98-019, § 1, 2-23-1998; Ord. No. 98-037, § 1, 4-13-1998; Ord. No. 99-004, § 1, 1-11-1999; Ord. No. 99-697, § 1, 4-26-1999; Ord. No. 99-865, § 1, 7-26-1999; Ord. No. 99-976, §§ 1, 2, 10-25-1999; Ord. No. 2000-053, § 1, 3-13-2000; Ord. No. 2001-019, 3-12-2001; Ord. No. 2001-020, 3-12-2001; Ord. No. 2002-002, 1-14-2002; Ord. No. 2002-086, 7-8-2002; Ord. No. 2002-134, 11-12-2002; Ord. No. 2003-040, 3-24-2003; Ord. No. 2003-279, 11-24-2003; Ord. No. 2004-042, 3-22-2004; Ord. No. 2005-017, § 2(215.100), 2-28-2005; Ord. No. 2005-191, § 1, 10-24-2005; Ord. No. 2006-085, § 1, 6-12-2006; Ord. No. 2007-003, § 1, 1-22-2007; Ord. No. 2007-099, § 1, 10-8-2007; Ord. No. 2008-003, § 1, 1-14-2008; Ord. No. 2008-071, § 1, 7-28-2008; Ord. No. 2008-097, § 1, 9-22-2008; Ord. No. 2009-079, § 1, 10-27-2009; Ord. No. 2010-127, §§ 1—3, 11-23-2010; Ord. No. 2012-0174, § 1, 10-23-2012)

Sec. 62-77. Use for business purposes restricted.

No groups or individuals shall use any park facility for business purposes without permission through the parks and recreation department. Any person or group using the facility for business purposes after obtaining permission from the parks department shall produce the receipt showing payment of rental fees upon request of law enforcement personnel.

(Code 2005, § 62-12; Ord. No. 2005-048, § 1(215.080D), 4-25-2005)

Chapters 63—65

RESERVED

Chapter 66

RESERVED*

***Editor's note**—Ord. No. 2018-0030, § 2, adopted April 10, 2018, repealed Ch. 66, §§ 66-1, 66-2, 66-22—66-30, 66-49—66-52, 66-78—66-85, 66-114—66-119, 66-138—66-143, 66-170—66-175, 66-204—66-214, which pertained to planning and subdivisions. Similar provisions have been incorporated into Ch. 94, zoning. For full derivative history see the Code Comparative Table.

Chapters 67—69

RESERVED

Chapter 70

RESERVED*

***Editor's note**—Ord. No. 2019-0131, § 2, adopted Sept. 24, 2019, deleted Ch. 70 §§ 70-1—70-387 entitled "Signs." For full derivative history see the Code Comparative Table. See Ch. 94, Art. X for similar provisions.

Chapters 71—73

RESERVED

Chapter 74

SOLID WASTE*

Article I. In General

- Sec. 74-1. Definitions.
- Sec. 74-2. City to be responsible for system.
- Sec. 74-3. Prevention of nuisances.
- Sec. 74-4. Containers.
- Sec. 74-5. Construction and condition of collection vehicles.
- Sec. 74-6. Exceptions.
- Sec. 74-7. Prohibited acts.
- Sec. 74-8. Unlawful dumping or accumulation of waste.
- Secs. 74-9—74-34. Reserved.

Article II. Collection and Disposal

- Sec. 74-35. City to provide services; method of providing services.
- Sec. 74-36. Charges for service; establishment of regulations for private haulers.
- Sec. 74-37. Frequency of collections.
- Sec. 74-38. Disposal of commercial and industrial waste.
- Sec. 74-39. Depositing waste products.

***State law references**—Solid waste management, RSMo 260.200 et seq.; battery disposal, RSMo 260.260 et seq.; scrap tire disposal, RSMo 260.270 et seq.; disposal of plastic containers, RSMo 260.280; hazardous waste management, RSMo 260.350 et seq.; removal of weeds and trash by city, RSMo 71.285; municipal garbage and refuse collection and disposal, RSMo 71.680 et seq.; municipal ordinances for the regulation of garbage disposal authority, RSMo 71.690; littering, RSMo 577.070; illegal disposal of solid waste, RSMo 577.071.

ARTICLE I. IN GENERAL

Sec. 74-1. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Solid waste management system means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by the city or by any combination of the methods set forth in section 74-35.

(Code 1988, § 255.010; Code 1996, § 265.010; Code 2005, § 46-551; Ord. No. 519, § 5, 4-10-1978; Ord. No. 2011-026, § 1, 2-22-2011)

Sec. 74-2. City to be responsible for system.

The city shall continue the responsibility for, and provide for, a solid waste management system, and the collection and the removal of solid waste from all residential and commercial units and establishments in the city pursuant to the provisions of RSMo ch. 260.

(Code 1988, § 255.020; Code 1996, § 265.020; Code 2005, § 46-553; Ord. No. 519, § 1, 4-10-1978)

Sec. 74-3. Prevention of nuisances.

All trash, solid waste, garbage, refuse and other discarded materials, including, but not limited to, solid or semisolid vegetable, animal or mineral waste and rubbish or a combination of all of such materials, shall be handled, stored, collected, and disposed of in compliance with all laws, both local and state law, so as to prevent nuisance.

(Code 1988, § 255.050; Code 1996, § 265.050; Code 2005, § 46-554; Ord. No. 519, § 4, 4-10-1978)

Sec. 74-4. Containers.

(a) The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment within the corporate limits of the city shall provide sufficient and adequate containers for the storage of all

solid waste, and maintain such containers in good repair, and the area surrounding them in a clean, neat and sanitary condition, at all times.

(b) The containers and the area around them shall be maintained rodentproof and free of rodents. Such refuse containers shall be leakproof, waterproof, and fitted with a lid designed to reasonably prevent the entry of birds and animals, and to prevent the dispersal of refuse onto other properties, both private and public, by wind, water or other reason.

(c) Containers to be manually lifted shall not exceed 35 gallons in capacity nor weigh more than 65 pounds when full. Waste containers shall be placed at the curb on the day of collection and before such collection. Items which the city or the service does not handle and as set forth in the published rules and regulations shall be safely disposed of by the inhabitants in accordance with the law. Sturdy plastic trash bags, as manufactured for the containment of refuse, may be used as secondary containment and be limited in use to non-food, animal or vegetable waste so as to not attract animals or fowl, and only as permitted by the waste removal service. Where rubbish, such as leaves, grass clippings, tree trimmings, brush, and the like, which cannot be stored in approved refuse containers because of bulk or weight, such rubbish may be temporarily stored without the use of such containers provided it is neatly stacked and confined, placed so that it does not present a safety hazard, and secured so as to prevent their dispersal upon the premises served, upon adjacent premises, and upon public property.

(d) Garbage or rubbish generated by a multi-residential complex with four or more dwelling units, or garbage and rubbish generated by commercial properties must:

- (1) Be stored in dumpsters that are leak-proof and fitted with lids designed to prevent the entry of birds and animals; and
- (2) Comply with applicable size, weight, and accessibility requirements of the waste removal service.

(e) Portable refuse containers, which are containers that can be moved without the use of special machinery, shall not be placed where such containers may interfere with traffic, be on public roadways or where they can cause a safety hazard.

(f) Commercial dumpsters, which are containers that need special machinery to move, are not allowed on parcels containing one- or two-family residences unless a valid building permit exists for the property.

(g) These requirements can be suspended by the city during an emergency.

(Code 1988, § 255.060; Code 1996, § 265.060; Code 2005, § 46-555; Ord. No. 519, § 6, 4-10-1978; Ord. No. 2011-013, § 1, 1-11-2011; Ord. No. 2011-026, § 1, 2-22-2011)

Sec. 74-5. Construction and condition of collection vehicles.

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 waste therefrom.

(Code 1988, § 255.080; Code 1996, § 265.080; Code 2005, § 46-556; Ord. No. 519, § 8, 4-10-1978)

Sec. 74-6. Exceptions.

This chapter does not have application to the removal, hauling or disposal of earth and rock material from grading or excavation activities, or the transportation and disposal of demolition and construction waste; however, all such material, including the transportation of earth and rock materials, sand and gravel or other like products to construction sites, 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, and all such transportation of such materials shall be in compliance with state law.

(Code 1988, § 255.090; Code 1996, § 265.090; Code 2005, § 46-557; Ord. No. 519, § 9, 4-10-1978)

Sec. 74-7. Prohibited acts.

It shall be unlawful for any person to:

- (1) Deposit solid waste in any container other than his own without the written consent

of the owner when such is done to avoid the payment of the service charges in this chapter.

- (2) Interfere with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such.
- (3) Burn solid waste unless done in conformity with ordinances of the city related to such burning.
- (4) Dispose of solid waste in any manner or at any facility which is a nuisance or would be or is a violation of law.
- (5) Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the city without a contract with, or a permit from, the city.
- (6) Refuse to pay the charges called for pursuant to this chapter.

(Code 1988, § 255.100; Code 1996, § 265.100; Code 2005, § 46-558; Ord. No. 519, § 10, 4-10-1978)

Sec. 74-8. Unlawful dumping or accumulation of waste.

No person shall pile, dump, scatter or accumulate any garbage, waste, debris or refuse on either public or private property within the city, or permit such acts to be done.

(Code 1988, § 255.120; Code 1996, § 265.120; Code 2005, § 46-559; Ord. No. 407, § 1, 9-13-1971)

Secs. 74-9—74-34. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 74-35. City to provide services; method of providing services.

The city shall provide the solid waste collection and management system and services to all inhabitants, both residential and commercial, in the city either by:

- (1) A city-operated plan and system;
- (2) Contracting for such services with an independent contractor person or firm;

- (3) Contract with, or together with, another or other cities or the county;
- (4) Permitting all inhabitants to make private arrangements for disposal of solid waste under permit of health officer; or
- (5) Permitting under supervision of the city and by its permit the commercial or institutional inhabitants to make private arrangements for the disposition of solid waste from the business premises.

(Code 1988, § 255.030; Code 1996, § 265.030; Code 2005, § 46-581; Ord. No. 519, § 2, 4-10-1978)

Sec. 74-36. Charges for service; establishment of regulations for private haulers.

The board is herewith authorized from time to time to fix, levy, and collect a service charge for solid waste management services from the resident or occupant of every dwelling unit and commercial establishment in the city that takes advantage of the city service, except those units that might be vacant and except those units which may make suitable arrangements for the disposition of their solid waste under and by permit of the city. The charges shall be in such amounts as are appropriate and necessary to pay the expenses required to operate the service and maintain the service. In addition, by such resolution from time to time, the board may determine, provide, and publish such rules and regulations as are expedient, convenient and necessary for the proper operation of the management system both for the benefit of private haulers under contract with the city or for the benefit of the city, including the setting of performance bonds and other requirements and qualifications of private haulers.

(Code 1988, § 255.040; Code 1996, § 265.040; Code 2005, § 46-582; Ord. No. 519, § 3, 4-10-1978)

Sec. 74-37. Frequency of collections.

All trash in the city shall be collected at least once each week, or as frequently as is necessary to prevent nuisance if once-a-week collection is not adequate.

(Code 1988, § 255.070; Code 1996, § 265.070; Code 2005, § 46-583; Ord. No. 519, § 7, 4-10-1978)

Sec. 74-38. Disposal of commercial and industrial waste.

All commercial or industrial garbage, waste, debris and refuse shall be disposed of by the person in charge of and in control of the garbage, waste, debris or refuse, on a regular and periodic basis so as not to permit the accumulation of such garbage, waste, debris or refuse on either public or private property within the city.

(Code 1988, § 255.140; Code 1996, § 265.130; Code 2005, § 46-584; Ord. No. 407, § 4, 9-13-1971)

Sec. 74-39. Depositing waste products.

(a) No person shall dump, drain, spill or deposit any oil, grease, gasoline, petroleum products of any kind, waste, rubbish, electronic waste, medical waste, or yard waste on any public road, street, ditch, city-operated recycling container, storm sewer, alley or public property or upon any private property which will drain or flow into or upon any public road, street, ditch or alley.

(b) No person shall discharge to the municipal storm drainage system any non-stormwater discharge that does not originate from precipitation events, such as, but not limited to, septic system discharges, floor drains, and laundry or commercial car wash facilities. The following discharges are exempt from the prohibitions established by this article:

- (1) Waterline flushing or other potable water sources;
- (2) Landscape irrigation or lawn watering;
- (3) Uncontaminated pumped groundwater;
- (4) Foundation or footing drains;
- (5) Crawlspace pumps;
- (6) Air conditioning condensation;
- (7) Non-commercial washing of vehicles;
- (8) Swimming pools if dechlorinated to less than one ppm chlorine; and

(9) Firefighting activities.

(Code 1988, § 255.150; Code 1996, § 265.140; Code 2005, § 46-585; Ord. No. 407, § 5, 9-13-1971)

Chapters 75—77

RESERVED

Chapter 78

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

- Sec. 78-1. Obstructing street.
- Sec. 78-2. Obstructions generally.
- Sec. 78-3. Selling on street, sidewalk or other public place.
- Secs. 78-4—78-85. Reserved.

Article II. Newspaper Boxes

- Sec. 78-86. Malfunctioning boxes.
- Sec. 78-87. Maintenance of non-coin-operated boxes.
- Sec. 78-88. Space for pedestrian passage.
- Sec. 78-89. Chaining or bolting.
- Sec. 78-90. Size and appearance; location generally.
- Sec. 78-91. Clearing of ice and snow on adjacent sidewalk.
- Sec. 78-92. Placement in location liable to cause stopping by vehicular traffic.
- Sec. 78-93. Advertising.
- Sec. 78-94. Placement in front of display windows.
- Sec. 78-95. Violations deemed nuisance.
- Secs. 78-96—78-118. Reserved.

Article III. Public Improvements

- Sec. 78-119. Adoption of public improvement standards.
- Sec. 78-120. Acceptance and annexation of public roads and private streets.
- Sec. 78-121. Annexation of subdivisions with substandard sewer or water systems.
- Sec. 78-122. Standards for private streets.
- Sec. 78-123. Address numbers.
- Sec. 78-124. Management and control of public property and rights-of-way.
- Sec. 78-125. Sidewalks to be kept free from obstruction.
- Sec. 78-126. Required minimum improvements.
- Secs. 78-127—78-150. Reserved.

Article IV. Use of Right-of-Way

- Sec. 78-151. Declaration of findings and intent; scope.
- Sec. 78-152. Definitions.
- Sec. 78-153. Franchise or license required.

***Editor's note**—Ord. No. 2016-0193, § 2, adopted Dec. 13, 2016, amended ch. 78 inasmuch by deleting art. II, §§ 78-25—78-57 in its entirety and further renumbering arts. III—V as arts. II—IV as herein set out. Former art. II was entitled "Special Events" and derived from: Code 2005; Ord. No. 2002-053, adopted May 28, 2002; Ord. No. 2009-075, adopted Oct. 13, 2009; Ord. No. 2010-033, adopted Mar. 23, 2010; Ord. No. 2015-0008, adopted Jan. 27, 2015; Ord. No. 2016-0020, adopted Mar. 8, 2016; and Ord. No. 2016-0053, adopted May 24, 2016.

State law references—State highway system, RSMo 227.010; establishment and vacation of roads, public roads generally, RSMo 228.010 et seq.; private roads, RSMo 228.342 et seq.; construction and regulation of public roads, RSMo 229.010 et seq.; permits to move buildings across roads, RSMo 229.230 et seq.; railroad, road, and street crossings, RSMo 229.380 et seq.; removal of plants from highways and roadways prohibited, RSMo 229.475 et seq.; maintenance of public roads, RSMo 231.010 et seq.; procedure for vacation of city streets, RSMo 71.240; streets in subdivisions outside corporate limits of city, RSMo 71.270; annual municipal appropriations for construction and repair of public roads, RSMo 71.340; sidewalk wheelchair ramps, RSMo 71.365; authority for ordinances requiring conspicuous posting of street addresses for fire protection and emergency services purposes, RSMo 67.318; control of streets and sidewalks, RSMo 77.520

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- Sec. 78-154. Compensation and other payments.
- Sec. 78-155. Franchise and license applications.
- Sec. 78-156. Construction and technical requirements.
- Sec. 78-157. Transfer of franchise, license or waiver.
- Sec. 78-158. Oversight and financial responsibility.
- Sec. 78-159. Rights of city.
- Sec. 78-160. Repair of right-of-way and easements.
- Sec. 78-161. General provisions.
- Sec. 78-162. PEG requirements.
- Sec. 78-163. Federal, state and city jurisdiction.
- Sec. 78-164. Dedication of revenues.
- Sec. 78-165. Authority of city if provisions declared invalid or preempted.
- Secs. 78-166—78-199. Reserved.

Article V. Small Wireless Facilities

- Sec. 78-200. Use of right-of-way for small wireless facilities and utility poles.
- Sec. 78-201. Definitions.
- Sec. 78-202. Small wireless facilities; restrictions.
- Sec. 78-203. Permits, when required.
- Sec. 78-204. Design standards applicable to all small wireless facilities.
- Sec. 78-205. Design standards applicable to collocated small wireless facilities.
- Sec. 78-206. Design standards applicable to small wireless facilities on new stand-alone utility poles.
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- Sec. 78-208. Undergrounding.
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- Sec. 78-211. Fee schedule.
- Sec. 78-212. Damage and repair.
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- Sec. 78-214. Conflicts.
- Sec. 78-215. Other applicable ordinances.
- Sec. 78-216. Orders, rules and regulations.
- Sec. 78-217. City failure to enforce.
- Sec. 78-218. Construed according to Missouri law.
- Sec. 78-219. Sunset clause.
- Secs. 78-220—78-250. Reserved.

ARTICLE I. IN GENERAL

Sec. 78-1. Obstructing street.

A person shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street within the boundaries of the city. The term "street," as used in this chapter, means any roadway accessible to the public for vehicular traffic, including, but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the city.

(Code 1988, § 205.010; Code 1996, § 230.010(G); Code 2005, § 78-1; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 78-2. Obstructions generally.

No person shall obstruct any street, alley or sidewalk or public grounds in the city with any kind of vehicle, boxes, lumber, wood, barrels, railroad ties, or any other thing, or place any earth, filth, or rubbish in or dig any holes in the same, without a special event permit pursuant to chapter 94, the zoning regulations. Any person violating any of the provisions of this section shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-13.

(Code 1988, § 225.090; Code 1996, § 205.210; Code 2005, § 78-2; Ord. No. 498, §§ 1, 2, 11—13, 8-22-1977)

Sec. 78-3. Selling on street, sidewalk or other public place.

(a) Except as otherwise permitted by special event permit or other action of the board or as otherwise provided in this Code, if any person shall sell or expose for sale at public outcry or auction, on any of the highways, streets, sidewalks, or other public places in the city, any goods, wares, merchandise or any property or thing of any description, he shall, on conviction, be subject to the penalty provided for in section 1-13.

(b) Except as permitted as part of a special event permit or as permitted in subsection (c) of this section, the use of public property for business purposes is prohibited.

(c) The use of public property in commercial areas of the city on which the front yard setback is less than three feet from the property line shall be restricted to those uses listed in this section.

- (1) Except where elsewhere prohibited by this Code, business doors may be left in the open position during regular business hours, provided no advertising matter or display of merchandise is placed on the open door. Doors may contain the name and address of the business, the business hours, in addition to an "open" sign and credit card acceptance decals.
- (2) Flower boxes, which are attached to the building, may extend a maximum of 18 inches over public property, provided they do not create a danger to public safety, and provided a minimum clear width of four feet of sidewalk is maintained along the entire length of the flower box. Flower boxes shall be no higher than the sill of the lowest window located on the front of the building and no longer than the width of the window under which they are located.

(Code 1988, § 225.110; Code 1996, § 205.480; Code 2005, § 78-3; Ord. No. 2006-119, § 1, 8-28-2006; Ord. No. 2019-0131, § 2, 9-24-2019)

Secs. 78-4—78-85. Reserved.

ARTICLE II. NEWSPAPER BOXES*

Sec. 78-86. Malfunctioning boxes.

Coin-operated and non-coin-operated newspaper dispensing and vending boxes may be situated and located on the sidewalks of the city in accordance with this article. The owners and operators of such coin- and non-coin-operated boxes shall provide information on the box concerning nonfunctioning and failure to return coins or to operate properly. This information should direct the customer to a locality in the city where the money may be returned. Upon

*Editor's note—Formerly codified as art. III, see editor's note at ch. 78.

being informed that the newspaper dispensing box is malfunctioning, it shall be the duty of the owner thereof, within one hour, to place upon such newspaper box a sign which reads "Out of Order" and within 24 hours to repair or replace the newspaper box.

(Code 1988, § 240.040; Code 1996, § 205.450(A); Code 2005, § 78-31; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-87. Maintenance of non-coin-operated boxes.

Non-coin-operated newspaper boxes shall be kept in a neat, clean and painted manner, and shall be operable. In the event of disrepair or if the boxes in any way become unsightly, upon notification, the condition shall be remedied by the owner.

(Code 1988, § 240.040; Code 1996, § 205.450(B); Code 2005, § 78-32; Ord. No. 656, §§ 1—4, 7-23-1984)

- (2) Size of the box is not to exceed 49.5 inches in height and 18 inches in depth.
- (3) All such boxes shall be freshly painted once each two years upon request of the building inspector.
- (4) Boxes shall be placed so as to permit safe and convenient access to the curb by passengers and operators of motor vehicles.
- (5) All such boxes shall be located at least 15 feet away from the closest edge of a pedestrian crosswalk at intersections so as to avoid any child being hidden behind the boxes prior to entering the crosswalk.

(Code 1988, § 240.040; Code 1996, § 205.450(E); Code 2005, § 78-35; Ord. No. 656, §§ 1—4, 7-23-1984; Ord. No. 2006-119, § 2, 8-28-2006)

Sec. 78-88. Space for pedestrian passage.

It shall be lawful to place coin-operated and non-coin-operated vending boxes on the sidewalks of the city in such a manner that at least a space of the sidewalk five times the depth of the box is at all times free for the convenient, safe and reasonable passage of pedestrians.

(Code 1988, § 240.040; Code 1996, § 205.450(C); Code 2005, § 78-33; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-89. Chaining or bolting.

Newspaper dispensing boxes shall not be chained to public property, chained to each other, or bolted to the sidewalk, so as to prevent damage and destruction to municipal property.

(Code 1988, § 240.040; Code 1996, § 205.450(D); Code 2005, § 78-34; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-90. Size and appearance; location generally.

All newspaper dispensing boxes shall be of a size and appearance as follows, and located on the sidewalks as follows:

- (1) Letters advertising are not to exceed 3½ inches in height.

Sec. 78-91. Clearing of ice and snow on adjacent sidewalk.

It shall be the duty of the owner of the newspaper dispensing box to keep the sidewalk between the box and the curb free of ice and snow, and the box owner shall be treated as an owner of property adjacent to and abutting such sidewalk.

(Code 1988, § 240.040; Code 1996, § 205.450(F); Code 2005, § 78-36; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-92. Placement in location liable to cause stopping by vehicular traffic.

It shall be unlawful to place a newspaper vending box on the rights-of-way of public streets in such a manner that would encourage or permit vehicular traffic to stop to buy a newspaper, so as to avoid the danger of collision and interruption of the flow of traffic on the streets of the city.

(Code 1988, § 240.040; Code 1996, § 205.450(G); Code 2005, § 78-37; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-93. Advertising.

Boxes dispensing newspapers or other material shall be limited in respect to advertising and wording on the boxes so that only the following information shall be set forth on the boxes:

- (1) Name of the paper;
- (2) Directions for use of the machine; and
- (3) Location where a refund can be obtained on an inoperable machine.

(Code 1988, § 240.040; Code 1996, § 205.450(H); Code 2005, § 78-38; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-94. Placement in front of display windows.

Newspaper boxes shall not be placed in front of display windows of merchants without express permission of the merchant.

(Code 1988, § 240.040; Code 1996, § 205.450(I); Code 2005, § 78-39; Ord. No. 656, §§ 1—4, 7-23-1984)

Sec. 78-95. Violations deemed nuisance.

Any newspaper box not in compliance with this article shall be deemed a public nuisance and the city attorney shall take such action as to bring the owner notice of the violation, and give the owner a reasonable time to bring the situation into compliance.

(Code 1988, § 240.040; Code 1996, § 205.450(J); Code 2005, § 78-40; Ord. No. 656, §§ 1—4, 7-23-1984)

Secs. 78-96—78-118. Reserved.**ARTICLE III. PUBLIC IMPROVEMENTS*****Sec. 78-119. Adoption of public improvement standards.**

Those certain documents being marked and identified as follows, one copy of each of which is on file in the office of the city clerk, are hereby referred to, adopted and incorporated in this article as if fully set out in this section:

- (1) City design criteria for public improvement projects.
- (2) City technical specifications for public improvement projects.

(Code 1996, § 530.010; Code 2005, § 78-61; Ord. No. 99-662, § 1, 4-12-1999)

Sec. 78-120. Acceptance and annexation of public roads and private streets.

(a) *Annexation of subdivisions with substandard private streets.* The city shall not accept any dedication of private streets in an annexed subdivision until the homeowners' association, or duly constituted body of property owners, or the property owners, have improved the streets to city standards.

(b) *Annexation of subdivisions with substandard public streets.* The city shall not annex subdivisions with substandard public streets, except under one of the following three conditions:

- (1) If the public status of the streets is unclear because of informal dedication

*Editor's note—Formerly codified as art. IV, see editor's note at ch. 78.

and informal maintenance by the county, the city will not annex until the county vacates the streets back to private street status, for private maintenance, unless the board determines there is an overriding public health, safety, or economic interest to the contrary. When the county vacates such a street back to private street status, the city may annex the subdivision, but the city will not accept any dedication of the street until the homeowners' association, or duly constituted body of property owners, or the property owners, have improved the streets to city standards.

- (2) If a substandard street was dedicated and accepted by formal action of the county within the previous five years, the subdivision will not be annexed except under the following conditions: The city will not annex the subdivision until the county vacates the street back to private street status, for private maintenance, unless the board determines there is an overriding public health, safety, or economic interest to the contrary. When the county vacates such a street back to private street status, the city may annex the subdivision, but the city will not accept any dedication of the street until the homeowners' association, or duly constituted body of property owners, or the property owners, have improved the streets to city standards.
- (3) If substandard subdivision streets were originally platted as public streets, or were originally private streets but dedicated to the public over five years prior to the enactment of the ordinance from which this section is derived, the subdivision will not be annexed except under the following conditions: All streets must be approved by the city engineer as paved blacktop, with a minimum of two-inch asphalt overlay and four-inch sub-grade, or equivalent, unless the board determines there is an overriding public health, safety, or economic interest to justify annexation. In either case, the

city will be under no obligation to improve the streets to any better condition than existed at the date of annexation and will maintain the streets in their as-is condition. Such streets will not be improved to city standards by the city unless the subdivision property owners submit a petition for the city to construct such improvements and assess the costs back against the benefitted properties by a Neighborhood Improvement District (NID), and, after a public hearing, the petition and project have been approved by the board.

(c) Improvement of substandard public roads.

When the city annexes property into the corporate limits which includes any public road that has been previously dedicated to and accepted by another governmental entity, the city shall have no obligation to improve such road to a higher standard of quality or design than that level which existed at the time of annexation, nor shall there be any obligation to maintain such road at an increased level of repair or maintenance.

(Code 1996, § 530.020; Code 2005, § 78-62; Ord. No. 99-662, § 1, 4-12-1999; Ord. No. 2001-072, § 1, 7-9-2001)

Sec. 78-121. Annexation of subdivisions with substandard sewer or water systems.

(a) The city will not annex a subdivision with substandard sewer or water systems until a project to finance and build all necessary sewer and water improvements and connection to the city system is undertaken by the subdivision property owners with sufficient bonds or other security to guarantee completion. The city will require all sewer customers in the annexed area to connect to city water as a condition of acceptance, unless the customers have a binding contract with the public or private provider of water service, whereby the service provider has agreed to terminate water service at the city's request for nonpayment of sewer bills. The city will not accept any dedication of any such sewer or water system until the projects are completed to city standards and approved by the city

engineer, and all costs have been bindingly assessed against the benefitted property owners. Acceptable financing alternatives include:

- (1) Financing and construction by a homeowners' association with binding legal authority to assess costs against property owners.
- (2) Financing and construction under a county Neighborhood Improvement District assessing costs against property owners.

(b) Any or all of the requirements of subsection (a) of this section may be waived, in whole or in part, by the board upon determining there is an overriding public health, safety, or economic interest to justify the waiver.

(Code 2005, § 78-63; Ord. No. 2001-072, § 1, 7-9-2001)

Sec. 78-122. Standards for private streets.

(a) Private streets are subject to all requirements of public streets except for street and right-of-way width. They shall be reviewed, approved, inspected and tested in the same manner as public streets and shall include drainage facilities, curbs, sidewalks, driveway entrances, and streetlights built to city standards. The minimum allowable width of the private streets will be determined by the city engineer based on projected traffic volume and availability of off-street parking.

(b) Off-site construction permits and complete inspection and testing are required on private streets for paving, curb, gutter and drainage facilities. Such permits shall be issued subject to prevailing fees for public streets. Parking lots and their associated accessways shall receive limited inspection to ensure plan requirements for drainage and thickness of asphalt and base course have been satisfied. The distinction between private streets and parking lot accessways will be determined by the city engineer.

(c) Street name signs and traffic control devices shall be furnished and installed by the developer in accordance with approved plans prior to project acceptance.

(Code 1996, § 530.030; Code 2005, § 78-64; Ord. No. 99-665, § 4, 4-12-1999)

Sec. 78-123. Address numbers.

The city engineer is hereby authorized to assign address numbers to new subdivision parcels or other properties as they develop in the city. Address numbers may be changed only upon approval of the board by resolution, upon recommendation of the police chief and the fire chief that the address number assigned to a property causes confusion or compromises the accurate dispatch of emergency vehicles to the property. An address change shall not become effective until the seventh calendar day following delivery of a notification of such change to the property owner of record, the 911 authority, and the federal postmaster.

(Code 1996, § 530.040; Code 2005, § 78-65; Ord. No. 2000-091, § 1, 6-12-2000)

Sec. 78-124. Management and control of public property and rights-of-way.

(a) The city engineer, under the direction and control of the city administrator, shall have administrative control over the means and manner of all excavation, modification or encroachment by any structure upon right-of-way or city property. The city engineer may exempt any excavation, modification or encroachment from the provisions of this section which he determines to be of minor or insignificant effect, or where compliance with these requirements will impose an unreasonable burden relative to the risk of damage which the work would cause.

(b) No person shall build, place or erect any structure or remove, cut, structurally alter or repair, or excavate upon, across or under any public street, sidewalk, right-of-way, or other public property without a permit from the city engineer in compliance with the city engineer's specifications and instructions. Security shall be provided by the applicant in the form of a bond, letter of credit, cash escrow or other security acceptable to the city engineer in an amount determined by the city engineer to be sufficient to recover cost and expense which the city engineer estimates would be incurred by the city to remove and repair defective or incomplete workmanship performed by the applicant, the applicant's agents

or employees, or any other person acting under the applicant's direction or authority in the performance of the permitted work.

(c) If any person shall build, place or erect any structure or remove, cut, structurally alter or repair, or excavate upon, across or under any public street, sidewalk, right-of-way, or other public property, or dig, remove or carry away any earth, sand, gravel or sod from any public ground within the city, in violation of this section, he shall be subject to the penalty provided for in section 1-13.

(Code 1996, § 530.050; Code 2005, § 78-66; Ord. No. 2000-114, § 1, 8-14-2000)

Sec. 78-125. Sidewalks to be kept free from obstruction.

(a) All owners and occupants or their agents of any property fronting on any sidewalk, curbstone or gutter shall keep such sidewalk free and clear of filth and of all obstructions of any kind, and shall keep the sidewalk free of ice and snow and clear the sidewalk of ice and snow as soon as possible after inclement weather conditions and shall keep the sidewalk in a condition safe for all pedestrian traffic.

(b) The city attorney is authorized to file suitable action in the circuit court to compel the abutting property owners to make repairs where necessary.

(c) All structural modifications or excavations across city sidewalks shall only be done with the approval of the city engineer, and no person shall remove, cut, or structurally alter or repair any sidewalk without a permit from the city engineer with adequate security posted and in compliance with the city engineer's specifications and instructions.

(Code 1996, § 530.060; Code 2005, § 78-67; Ord. No. 2000-114, § 2, 8-14-2000; Ord. No. 2021-0083, § 2, 8-10-2021)

developer shall connect with such storm drainage system and shall do all grading and provide all drainage structures that are necessary to properly carry the water to locations, adequate for said drainage in accordance with the design criteria for public infrastructure on file in the city engineer's office.

- (2) *Stormwater detention.* Stormwater detention facilities and/or sedimentation facilities shall be constructed as required to control off-site drainage impacts in accordance with the requirements set forth in the design criteria for public infrastructure on file in the city engineer's office. All storm drainage calculations shall be made in accordance with minimum design criteria of the city.
 - (3) *Abutting streets.* Unimproved abutting streets shall be improved where necessary to city standards in accordance with the design criteria for public infrastructure on file in the city engineer's office. All public streets, serving parcels within the city limits, shall be extended by the developer to the driveway serving the property.
 - (4) *Sewering adjacent property.* Sewer easements shall be extended to the boundary line to serve adjacent property except where adjacent property can be served by future sewer extension through right-of-way.
 - (5) *Water.* A public water system shall be constructed by the developer in accordance with the specifications on file in the office of the city engineer and water lines shall be constructed to the far property line of the property being developed.
- (Code 2005, § 78-68; Ord. No. 2008-016, § 2, 2-11-2008)

Sec. 78-126. Required minimum improvements.

The following shall apply to development of existing property within the city limits:

- (1) *Storm sewers.* Where a storm drainage system is reasonably accessible, the

Secs. 78-127—78-150. Reserved.**ARTICLE IV. USE OF RIGHT-OF-WAY*****Sec. 78-151. Declaration of findings and intent; scope.**(a) *Declaration of findings and intent.*

- (1) The city finds that the public streets, alleys, easements and other rights-of-way within the city:
- a. Are critical to the travel and transport of persons and property in the business and social life of the city and in the conduct of the health, education and commerce of its citizens and visitors;
 - b. Are intended for appropriately regulated public and private uses and must be managed and controlled consistent with that intent;
 - c. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the city, its citizens and visitors;
 - d. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation, and maintenance in the right-of-way;
 - e. Are assets of the city that taxpayers spend substantial tax revenues each year to acquire, and substantial tax revenues annually to improve and maintain, and that when utility companies or telecommunications

companies and other users of the right-of-way excavate and otherwise disturb the right-of-way, the city must repave, reimprove, repair and at times regrade the right-of-way. Some of this expense is paid for from the general revenue fund, and some from dedicated tax sources;

- (2) The city finds that some right-of-way users have failed to provide accurate information to city contractors as to the location and nature of facilities in the right-of-way, or to relocate facilities prior to city projects, and make demands on city contractors to pay for damages to such facilities despite a failure to properly locate and identify same, resulting in delays in public works projects and increased costs to city through higher bids from such contractors;
- (3) The city finds that requiring a separately negotiated agreement between the city and educational institutions or other governmental bodies for use of the right-of-way for telecommunications purposes is nondiscriminatory and does not create a competitive advantage for any provider of services;
- (4) The city finds that passage of a right-of-way ordinance to deal in a competitively neutral fashion with telecommunications providers will have a beneficial effect on all the citizens and users of the right-of-way as competition among telecommunications providers within the city continues to increase due to changes in technology, in federal and state law and increased demand for such services by city residents, businesses, educational institutions, governmental officers and other public and private institutions;
- (5) The city finds that the right to occupy portions of the right-of-way for limited times and at specific locations for the business of providing utility services, telecommunications services or open video services is a valuable economic right to use a unique public resource that has

*Editor's note—Formerly codified as art. V, see editor's note at ch. 78.

been acquired and is maintained at great expense to the city and its taxpayers, and the economic benefit of such rights should be shared with all the taxpayers of the city;

- (6) The city finds that while utility facilities and telecommunications facilities are in part an extension of interstate commerce, their operations also involve right-of-way, municipal franchising, and vital business and community service, which are of local concern;
- (7) The city finds that it is in the best interests of its citizens to promote the rapid, but safe, development of utility facilities and telecommunications facilities responsive to community and public interest, to ensure that utility companies and telecommunications companies provide adequate, economical and efficient service to their subscribers, and to ensure availability for municipal services, educational and community services while not compromising the public's rights to use of the right-of-way for travel and compensation for private commercial use of the right-of-way;
- (8) The city finds that it is in the interests of the public to franchise or license, and establish standards for franchising and licensing utility companies and telecommunications operators and operators of open video systems in a manner that:
 - a. Compensates the city for the fair market value of the property used and for ongoing costs associated with the use of such property as required by article VI, sections 23 and 25 of the state constitution (Mo. Const. art. VI, §§ 23, 25); and that such compensation has been previously approved by the federal congress and set at a percentage of gross revenues for cable and open video service providers consistent with what other users of the right-of-way pay to the city, including the cable operator, which pays three percent

of gross revenues, and the electric utilities, which pay two percent of gross revenues for use of the right-of-way;

- b. Takes into account that a gross receipts license tax exists on electric utility providers that is not applicable to other users of the right-of-way and that to encourage infrastructure deployment in the city a rental less than fair market rent should be charged initially, and gradually increased if necessary, to reduce immediate costs to utility facility and to telecommunications facility owners who construct and use facilities within the city;
- c. Encourages competition by establishing terms and conditions under which owners may use valuable public property to serve the public while creating and maintaining a level playing field among similarly situated participants;
- d. Fully protects the public and the city from any harm that may flow from such private commercial use of right-of-way;
- e. Protects the authority of the city, in a manner consistent with federal and state law, including, but not limited to, RSMo 82.190, 82.230 and 392.080, and article VI, section 19 of the state constitution (Mo. Const. art. VI, § 19), and as required by article III, section 38(a), Mo. Const. art. III, § 38(a) (prohibition on gifts

- or grants of property to private entities), and article VI, sections 23 and 25, Mo. Const. art. VI, §§ 23, 25 (no grant or aid to corporations of public property) of the state constitution, and as recognized by various state and federal courts; and
- f. Otherwise protects the public interests in the development and use of city infrastructure;
- (9) The city finds that section 253 of the Telecommunications Act of 1996 (47 USC 253) preempts any local regulation or legal requirement that may prohibit, or have the effect of prohibiting, entry into the market for intrastate or interstate telecommunications service, and that requiring a public vote before granting a franchise or license to use the city's rights-of-way for a telecommunications provider would constitute such a local regulation or legal requirement under section 253 (47 USC 253); and
- (10) The city adopts this article pursuant to its power to enter into contracts with occupiers of public property, manage the right-of-way and receive reasonable, nondiscriminatory compensation for the use of right-of-way by telecommunications providers as expressly preserved by sections 253 and 653 of the Telecommunications Act of 1996 ("the Act") (PL 104-104), 47 USC 253, 573, and its authority and duty under state law, including article VI, sections 23 and 25 of the state constitution (Mo. Const. art. VI, §§ 23, 25), and RSMo 82.190, 82.230 and 392.080.
- (b) *Scope.* This article shall provide the basic terms and conditions for providers of utility services and telecommunications services, including providers of only the physical plant necessary to operate a utility system or communications system, unless otherwise expressly excluded, for use of the right-of-way, including the compensation to be paid for this privilege. It is the intent of this article to create the mechanism by which franchises and licenses are to be granted to providers of utility services and telecommunications ser-
- vices utilizing the right-of-way, and not to require other forms of general consent to the use of the right-of-way. However, a grantee shall comply with all requirements for permits, standards for repair and restoration of the right-of-way or other requirements dealing with the actual use of the right-of-way imposed under this article or by other provisions of this Code, and any other requirements for licenses, payment of taxes or other obligations, liabilities, duties or responsibilities under this Code and the existence of a franchise or license does not excuse a grantee from these requirements. This article shall apply to all owners, persons with a controlling interest in utility facilities or telecommunications facilities or systems, facilities providers and occupiers of any portion of the right-of-way, whether operating with or without a franchise or license, and such persons shall comply with all requirements contained in this article for grantees. Persons maintaining a presence in the right-of-way or other public property pursuant to an ordinance, permit or license granted by the city prior to the effective date of the ordinance from which this article is derived, or maintaining a presence without such consent, shall comply with the provisions of this article. This article shall also apply to city-owned or controlled telecommunications systems except to the extent such lines or facilities are utilized on an internal, noncommercial basis by the city or any of its departments, boards or other entities. Nor shall this article apply to cable television services, a separate franchise being required to use the right-of-way to provide such service.
- (c) *Excluded activity.*
- (1) This article shall not apply to cable television owners otherwise operating under a separate cable television franchise with the city for cable television operations.
- (2) Persons excused by valid other laws, when such laws are not prohibited by other law or constitutional limitations of authority, that prohibit the city from requiring a franchise or license shall not be required to obtain a franchise or license unless such person has previously agreed to abide by the provisions of this article, but all of the requirements imposed by this article

through the exercise of the city's contracting and police powers and not preempted by other law shall be applicable, including the requirement of payment of compensation for the use of the right-of-way, requirements of notice of work to be performed, and any specifications for restoration of the right-of-way adopted by the public works director and as amended from time to time.

- (3) This article shall not supersede any law requiring approval of a franchise by the voters, nor authorize any franchise or use of the right-of-way which is in any manner contrary to law.

(Code 2005, § 78-91; Ord. No. 2001-053, § 1, 5-29-2001)

Sec. 78-152. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Acceptance means filing a certificate on a form approved by the city attorney with the city clerk notifying the city of such acceptance or applying for, and being granted, a permit to construct, install, repair, maintain or otherwise work in the right-of-way for the purpose of constructing, installing, repairing, and maintaining any utility facilities or telecommunications facilities including, but not limited to, pipes, hose, tubes, wires, fiber, conduit or poles after the effective date of the ordinance from which this article is derived.

Affiliated person means each person who has, directly or indirectly, a controlling interest in an owner, and/or each person in which an owner has, directly or indirectly, a controlling interest; provided, however, that the term "affiliated person" shall in no event mean the city.

Applicant means any person who applies for a franchise or license pursuant to this article.

Application means the process by which an applicant submits a request and indicates a desire to be granted a franchise or license to utilize

the right-of-way of all, or a part, of the city. An application includes all written documentation, statements and representations, in whatever form or forum, made by an applicant to the city concerning: the construction of a utility system or telecommunications system or open video system over, under, on or through the right-of-way; the area proposed to be served within the city by an applicant; the portion of the right-of-way proposed to be used by an applicant; and any other matter pertaining to a proposed utility system or telecommunications system, open video system, utility service, telecommunications service, or open video service which is necessary for a determination as to whether or not the applicant meets the terms and conditions established by this article.

Completion date means the first date that a franchisee, owner or licensee begins providing services to customers on the system.

Construction costs means all costs of constructing the franchisee's or licensee's system, including make ready costs.

Construction standards means the right-of-way construction standards of the city.

Control and *controlling interest* mean actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of franchisee. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than five percent of any person (which person or group of persons is hereinafter referred to as "controlling person"). The term "control" or "controlling interest," as used in this article, may be held simultaneously by more than one person or group of persons.

Excess capacity means fiber optic telecommunications cable or lines that are not presently equipped to power the fiber and transmit information. The term "excess capacity" shall also mean capacity available on any part of any telecommunications system but not utilized by the telecommunications facilities owner itself.

Facilities means pipes, wires, conduit, hose, pole, tube, fiber optic telecommunications cable, wire, coaxial cable, or other medium that may be used in lieu thereof for the purposes of transmitting, collecting, exchanging or distributing any utility or telecommunications service or commodity.

Facilities provider means any person who owns or controls a utility system or facility or telecommunications system or facility, in whole or part, within the city but who does not provide services directly to the public, exclusive of the provisions of services to persons who are resellers only and do not operate any portion of the system independently of another.

FCC means the Federal Communications Commission or any successor thereto.

Franchise means the authorization granted by the city to an owner of a utility facility or telecommunications facility, cable system, or an open video system giving the owner the nonexclusive right to provide, through facilities maintained or operated upon, across, beneath, or over any right-of-way in the city, a specified service within a franchise area. Any such authorization, in whatever form granted, shall not mean or include:

- (1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city;
- (2) Any permit, agreement or authorization required in connection with operations on public streets or property, including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along a right-of-way.

Franchise agreement means a contract entered into in accordance with the provisions of this article between the city and a franchisee that is comprised of a certificate of acceptance of a franchise as approved by the city attorney and subject to all the terms of this article.

Franchise area and *license area* mean the geographic area within the city limits as amended from time to time served by a franchisee or licensee and described in a franchise agreement or license.

Franchisee and *licensee*. The term "franchisee" means holders of franchises only and the term "licensee" means holders of licenses only, and such individual terms shall be used when a specific part of this article applies to holders of either a franchise or a license, but does not apply to holders of both.

Grantee means any person who holds a franchise or license or has accepted the terms of this article by applying for and being granted a permit to install any part of a utility system or telecommunications system on the right-of-way or other property, which he intends to, or actually does, own or holds a controlling interest in any portion thereof. However, the term "grantee" shall not include educational institutions as defined in this section, or governmental bodies as such entities must negotiate a separate agreement with the city for use of the right-of-way.

Gross revenue means any and all cash, credits, property or other considerations of any kind or nature, received directly or indirectly by a grantee or derived directly or indirectly by their affiliates, subsidiaries, parent companies and any person in whom a grantee has a financial interest or income-producing contract, and arising from, attributable to, or in any way derived from the operation or ownership interest of a utility facilities or system or telecommunications facilities or system or the provision of utility services through a utility system or facilities, or telecommunications services over a telecommunications system or facilities within the city of a grantee's or an affiliated person. The term "gross revenues" includes, by way of illustration and not limitation, monthly fees for any service originating within the city, and/or billed to a city telephone number or address; installation, disconnection, reconnection, and change-in-service fees; rents, late fees and processing fees, fees or payments received for carriage of information, signals or data; advertising revenues; and in-kind services or goods, received by the grantee or by any affiliated person

from or in connection with any telecommunications facilities, system or services or open video services that originate in and/or terminate in the city, and also including revenue derived from the sale or lease of equipment and/or facilities provided by a grantee or any affiliated person if such facilities and/or equipment are required for and integrated with the services provided by a grantee or affiliated person or reseller, and any revenue derived from interconnecting utility service providers or telecommunication service providers; provided, however, that "gross revenues" shall not include taxes collected to pay to legitimate taxing authorities and yellow page directory advertisement; and provided, further, that "gross revenues" shall not include those revenues received from a subtenant or reseller who is certified by the finance director as having already paid any or rental fees imposed by this article to the city for the applicable reporting period and the same business or activity being conducted over the rented facilities for which revenue was received by the grantee. In the event a person receives revenues for operations within and without the city of which no specific portion can be attributed to operations in the city through origination or billing address, "gross revenues" which respect to such revenues shall mean the portion thereof derived by multiplying such revenues by a fraction, the numerator of which is the number of subscribers in the city, and the denominator of which is the total number of subscribers in the area generating such revenues.

Initial system means the telecommunications system and/or the open video system depicted in exhibit A to the franchise or license.

Internet means the computer facilities and telecommunications facilities, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information by wire, radio or wireless transmissions, or other technologies which accomplish the same or similar functions.

Internet-related services means Internet access services, including storage, processing, and transmission of information that enables an individual

to make use of the resources found via the Internet and online services, including information, information processing, electronic commerce, and other services available to an individual as part of a package of services that are combined with Internet access service and offered to the user for a single price, or a series of price options. The term "Internet-related services" also means any and all means of use of the Internet provided to another person.

License means the rights and obligations extended by the city to an owner to own, construct, maintain and operate its system within the boundaries of the city for the sole purpose of providing services to persons or areas outside the city or to a person to own, construct, maintain and operate a system at a particular, discrete and limited portion of the right-of-way as identified in the application within the city for the licensee's own use and not for sale or use by other persons.

Licensee. See *Franchisee*.

Linear foot means the length in feet of cable, wire, fiber or other linear facilities physically connected, wrapped, or lashed as a single cable or bundle of cables, or with respect to underground facilities, means the length of a pipe, hose, tube or conduit or any array of conduits contemporaneously installed during the same construction project by a single provider. A separate franchise shall be required for each separate entity that owns or controls facilities within the array of conduit. If any pipe, hose, tube, cable, wire, fiber or other linear facility or conduit or array of conduits has a width of greater than six inches, each additional width of six inches shall be treated as a separate linear foot for purposes of computing the linear foot charge for use of the right-of-way.

Open video service means any video programming services provided to any person through the use of right-of-way, which provider is certified by the FCC to operate an open video system pursuant to section 651 et seq. of the Telecommunications Act (to be codified as 47 USC title VI, part V (47 USC 571 et seq.)), regardless of the facilities used.

Open video system means the system of cables, wires, lines, towers, wave guides, optic fiber, mi-

crowave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the city.

Owner means any person who provides service over or through a utility conveyance system or telecommunications transmission system that is located in part or entirely within the right-of-way, and directly or through one or more affiliates owns a controlling interest in such facility, or who otherwise controls or is responsible for the operation of such a system, including acting as an infrastructure provider to others.

Penalties means any and all monetary penalties provided for in this article.

Reseller means any person who provides utility service through a utility system or facility or telecommunications service over a telecommunications facility for which a separate charge is made, where that person does not own or lease the underlying utility facility or telecommunications facility used for the conveyance, collecting, exchange, distribution or transmission.

Restore and *restoration* mean the process by which a right-of-way is returned to the same condition and life expectancy that existed before excavation.

Separately negotiated agreement means an agreement between the city and a governmental body, entity or educational institution for use of the right-of-way for any part of a telecommunications facility, system or private line.

Service means any utility services or telecommunications services provided by a grantee within the city or through a utility system or over a telecommunications system located partially or wholly within the city limits, that the grantee is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided by the grantee within the city, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television

Consumer Protection and Competition Act of 1992 (47 USC 521 et seq.), and the Telecommunications Act of 1966.

Signal means any transmission or receipt of electronic, electrical, light or laser or radio frequency energy or optical information in analog, digital or other format.

Special conditions means conditions contained in any franchise or license document that apply only to the person to whom such document has been granted.

Subtenant means any person who leases a utility facility or telecommunications facility or a specific portion of a utility facility or telecommunications facility from the owner of the facility to provide utility services or telecommunications services and who does not own the underlying utility facility or system or telecommunications facility or system used for the conveyance or transmission.

System means the utility system or telecommunications system (including an open video system) that is to be constructed, operated or maintained by a franchisee pursuant to the franchise, or by a licensee pursuant to license, including, but not limited to, all property and interests in property, pipes, hose, tube, cables, wires, optical fibers, amplifiers and all other electronic devices, equipment and facilities used in connection therewith and all rights, contracts and understandings with regard to any matter related thereto, and described in the application.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video, and voice), without change in the form or content of the information sent and received regardless of the technology used.

Telecommunications facilities means all conduits, manholes, poles, antennas, transceivers, wires, cable (including fiber optic cable) and appurtenances, or other physical items regardless of the technology used, and owned by a franchisee or licensee, located in the right-of-way, utility easements, public property, and public ways and air space over public ways, and utilized in the provision of telecommunications services, including by

way of example only fully digital or analog, voice, data and video imaging and other enhanced telecommunications services.

Transferee means an individual, person, or entity to whom the owner, licensee or franchisee intends to sell, transfer, or dispose of the whole, or any part, of the system, a part of which is located in the right-of-way, under section 78-132(a).

Utility company, service or system means every entity, regardless of its form of organization or governance, whether for profit or not, which, in providing a public utility type of service for members of the general public, utilizes pipe, wire, cable, conduit, hose, pole, tube or other medium that may be used in lieu thereof for the purpose of transmitting, collecting, exchanging or distributing any utility or telecommunications service or commodity.

(Code 2005, § 78-92; Ord. No. 2001-053, § 2, 5-29-2001; Ord. No. 2009-098, § 1, 12-8-2009)

Sec. 78-153. Franchise or license required.

(a) *Authority to grant.*

- (1) The city is empowered and authorized in accordance with article VI, sections 23 and 25, and article XI, section 3, of the state constitution (Mo. Const. art. VI, §§ 23, 25 and Mo. Const. art. XI, § 3), RSMo 82.190 and 82.230, and RSMo 392.080 to grant nonexclusive franchises and/or licenses governing the installation, construction, operation and maintenance of utility systems or telecommunications systems or open video systems in the right-of-way and desires to do so for those persons complying with the terms of this article.
- (2) The city in no way confers on any educational institution or political or governmental body any rights, title or interest of any kind, equitable or legal, in the right-of-way by not requiring at this time that such entities obtain a franchise or a license. The city specifically reserves its rights with respect to the use of its right-of-way by such entities and each such entity must negotiate a separate agreement with the city for the use of the

right-of-way for any purpose, including the placement of any part of a telecommunications facility or system thereon.

- (3) Granting of a franchise or license under this article does not confer any right on the grantee, or any client or subtenant of the grantee, to use the right-of-way for the direct or indirect delivery of services which by design necessitates the utilization of cable television infrastructure for its one-way delivery unless such services are reported and billed as "cable services" to subscribers in the city or to other subscribers who receive such services over any facilities that pass through the city limits under a separate franchise agreement with the city. Such services shall not be bundled, tied or combined with non-cable services not subject to city franchise fees. Telecommunications service delivered over cable infrastructure and which is not in compliance with the provisions of sections 251, 254, 255 and 256 of the Telecommunications Act of 1996 (47 USC 251, 254—256) shall not be afforded use of the right-of-way without a separate franchise or license issued under this article.
 - (4) A grantee shall be responsible to provide notice to each user or subtenant of its infrastructure or system of the restrictions on use of the infrastructure and system under this article.
 - (5) Any franchise or license notwithstanding, all grantees operating wireless telecommunications systems within the city are subject to all of the applicable ordinances and zoning requirements of the city related to such activities.
- (b) *Conditions.* Every facilities provider, subtenant, owner, and person must obtain and agree:
- (1) No person may own, construct, maintain or sell services over or by means of any utility system or facility or telecommunications system or facility, in whole or in part, in any portion of the right-of-way and within the city, without first applying for and receiving a license or franchise or obtaining a separately negotiated agree-

- ment for use of the right-of-way under the provisions of this article. An application for a license or franchise shall be submitted on a form approved by the city attorney's office pursuant to the requirements of this article and in accordance with any regulations adopted by the city administrator, and on file in the office of the city clerk, with respect to requirements for information relating to the ability of the applicant to comply with the provisions of this article. The applicability of this article to persons who only sell or otherwise provide utility services or telecommunications services to third persons without any property interest in a utility system or telecommunications system shall be governed by state and federal law. In the event a person is not required to obtain a franchise or license at the time of passage of the ordinance from which this article is derived, but federal or state law is amended, interpreted or changed in such a way as to then make such person subject to this article, then such person shall have 90 days following such change in the law to obtain a franchise or license from city. Failure to obtain such a license or franchise shall result in such person being in violation of this article and without authority to use the right-of-way for providing utility or telecommunications services.
- (2) The fact that a particular utility, communications or telecommunications facility may be used for multiple purposes does not obviate the need to obtain a franchise, license or separately negotiated agreement for any other purposes. By way of illustration and not limitation:
- a. A cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same facilities, must also obtain a telecommunications franchise; and
 - b. An electrical company must obtain a franchise to provide telecommunications services over any part of its electrical plant.
- (3) Applying for and obtaining a permit for placement, installation, construction or repair of a utility system or facilities or telecommunications system or facilities shall be deemed an acceptance of the provisions of this article. Within 60 days of obtaining such permit, the recipient thereof must submit all necessary insurance, bonds or other security required under this article, and meet all other requirements hereof, including, but not limited to, supplying plans of all facilities in the right-of-way sufficient to assist the city in managing such right-of-way, including, but not limited to, entering such information on a geographical information system and apprising city contractors of specific locations of utilities for right-of-way work. If requested by the grantee, plans shall be treated as proprietary if permitted under applicable law.
- (4) Any person who violates the terms of this article by not obtaining a franchise, license or separately negotiated agreement shall nevertheless be subject to the terms of this article and must comply with all requirements placed on grantees under this article, including the payment of fees, provision of indemnification and insurance, and surety bonds. No person who has failed to obtain a franchise, license or separately negotiated agreement shall be granted a permit to work in the right-of-way for the purpose of installing, maintaining, constructing or repairing any utility system or telecommunications system or part thereof until such time as such person has obtained a franchise, license or separately negotiated agreement and paid such funds as are due and payable as compensation for use prior to the issuance of such agreement.
- (5) Within 30 days of a grantee carrying any utility services or telecommunications services of any reseller through the grantee's system or facilities, the grantee shall notify the city attorney of the name and address of such reseller and provide to the

city a written commitment as to the payment of the fees from the revenues attributable to the reseller.

- (6) Except as otherwise may be provided by law, a grantee shall not lease, sell or authorize the use of any pipe, hose, tube or conduit within the right-of-way to a nonaffiliated third person for the installation of that person's utility or telecommunications system for any purpose if that person has not obtained a license or franchise from the city as required by this article.

(c) *Exceptions.* A franchise or license requirement may be waived by the board for the following: a utility system or facility or telecommunications system or facility, cable system or an open video system that is not designed to provide service in the city, and that does not provide service in the city, or a facility, such as an antenna, where the use of the right-of-way is de minimis. For these types of facilities, the city may issue an exception to the compensation terms of this article at the discretion of the board. Such exceptions shall be issued by ordinance and such ordinance shall list all portions of this article which shall not apply to the excepted entity. Such exceptions may be revoked at any time by ordinance passed by the board at the discretion of the board.

(d) *Nature of grant.* Neither a franchise nor license, nor granting of any permit, shall convey title or any interest whatsoever, equitable or legal, in the right-of-way. A franchise or license confers only the right to occupy a right-of-way to construct, repair, maintain and operate a system, in the franchise or license area, for the purposes permitted in this article and specified in the application of the grantee as either utility services, utility facilities, telecommunications services, telecommunications facilities or open video system, and approval of the city; the right to occupy the right-of-way for such purposes may not be subdivided or subleased. Neither a franchise nor license excuses an owner from obtaining appropriate access or pole attachment agreements before collocating its facilities or technology on facilities of others, including the city's facilities. The term of this grant shall be for as

long as the grantee complies with the provisions of this article, including constructing and repairing a right-of-way to the specifications and requirements of the public works director, as amended from time to time, and payment of the franchise or license fee imposed in this article, or for a shorter time period if negotiated between the city and the grantee, and until such time as the grant is revoked pursuant to the terms and conditions of this article as set forth in section 78-134, or because the board has determined that it no longer wishes to allow use of the right-of-way for the purpose covered by the grant. It is material to the grant of the rights under this article that the grantee complies with specifications and requirements of the public works director and pays compensation as required under this article.

(e) *Current owners and infrastructure providers and other persons.* Any owner or other person acting without a franchise or license as defined in this article on the effective date of the ordinance from which this article is derived shall request issuance of a franchise or license from the city within 90 days of the effective date of such ordinance and submit its written acceptance of privileges and obligations granted and imposed by this article. If such request and acceptance are made, the owner or other person may continue providing service during the course of review of the application. If a timely request is not made, or if franchise or license is not granted, the owner or other person shall cease operations over the system, or part thereof, for which no franchise, license or separately negotiated agreement has been reached, in a manner mutually agreed to by the city and the owner or other person, or upon 60 days' notice by the city to do so. Failure to make a timely request or to act in good faith towards obtaining a franchise or license shall constitute valid reason to cease issuance of any permits for work in, below, above and on the right-of-way or other property. One year after the passage of the ordinance from which this article is derived, any facilities found in the right-of-way that are not permitted by a franchise, license or separately negotiated agreement granted by the board shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance

or taking possession of the facilities and restoring the right-of-way to a usable condition at the sole cost of the owner or facilities provider thereof.

(f) *Nature of franchise or license.* The franchise or license granted by the city under the provisions of this article shall be a nonexclusive franchise or license providing the right and consent to install, operate, repair, maintain, remove and replace any part of a utility system telecommunications system and related equipment and facilities on, over and under the right-of-way of the city in order to provide utility services or telecommunications services that originate and/or terminate in or transit the city limits in accordance with specifications and conditions adopted by the public works director.

- (1) A franchise may be granted for all or any defined portion of the city.
- (2) A license is intended to be a limited grant of authority to use and occupy specifically identified streets or areas of the right-of-way to provide utility services or telecommunications services to the licensee or as a means of traversing the city without providing services to any entity or person within the city limits.

(g) *Regulatory approval needed.* Before offering or providing any utility services or telecommunications services pursuant to the franchise or license, a grantee, owner or other person subject to the terms of this article shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such utility services or telecommunications services from the appropriate federal, state and local authorities, if required, and shall submit to the city upon the written request of the city evidence of all such approvals, permits, authorizations or licenses.

(h) *Other permits and agreements.* Nothing contained in any franchise or license granted pursuant to this article shall entitle an owner or any other person to use, alter, convert to, or interfere with the facilities, easements, pipes, hoses, tubes, poles, conduits, lines, pipelines, wires, fiber, cable, or any other real or personal property of any kind whatsoever under the management or control of any other entity, public or private. An owner shall obtain and pay for all pole attach-

ment agreements, construction, building, road cut or other permits or approvals necessary under federal, state or city law or ordinance, before installing any part of a utility system or telecommunications system or related equipment and facilities. All educational institutions and governmental bodies wishing to place telecommunications facilities or systems, or any part thereof, on the right-of-way shall obtain a separate negotiated agreement prior to any work on the right-of-way. If an educational institution or governmental body has telecommunications facilities in the right-of-way at the time of passage of the ordinance from which this article is derived, such institution or body shall obtain written consent to retain such facilities in the right-of-way from the city administrator.

- (i) *Street cut and work permits required.*
 - (1) The granting of a license or franchise under this article shall not excuse the need to obtain permits and pay fees therefor from the public works director or other city departments for work on the right-of-way as required by city codes, or to grant a right to place facilities in any particular location within the right-of-way. The public works director may adopt regulations with respect to requiring alternative placement for facilities to ensure safe, efficient and cost-effective use of the right-of-way and standards for repair or repavement of the right-of-way that a grantee or other person must comply with. No such regulations shall become effective until on file with the city clerk for a period of at least 30 days and after being posted in the office of the public works director for at least 60 days prior thereto, and such regulations may be amended from time to time.
 - (2) Failure to restore, repair or repave any portion of a right-of-way in accordance with regulations adopted by the public works director may be cause to deny future permits. No person shall construct, install, repair or maintain any facilities or portions of a utility system or equipment or telecommunications system or equipment in the right-of-way to provide utility

services or telecommunications services without first obtaining such permits or other authority as may be required by the city or other provisions of this Code and city ordinances.

- (3) Within three years after the effective date of the ordinance from which this article is derived, the public works director shall determine if the standards for repair or repavement of the right-of-way in effect at the time of the passage of such ordinance are sufficient to restore the right-of-way to as good a condition as prior to any work conducted thereon. If he finds that they are not, he shall promulgate standards that are sufficient to accomplish that purpose to be complied with at the sole cost of the grantees or other persons who obtain permits to work on the right-of-way. The public works director shall periodically review such standards to determine if they are sufficient to restore the right-of-way to as good a condition as prior to any incursion thereon.

(j) *Eminent domain.* Nothing in this article shall be deemed or construed to impair or affect, in any way or to any extent, any right the city may have to acquire the property of the grantee through the exercise of the power of eminent domain, and nothing contained in this article shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, any power of eminent domain the city may have with respect to any facility, system or property, or to alter in any way the interest the city may have in any right-of-way, easements or other property over which a utility system or telecommunications system may be placed.

(Code 2005, § 78-93; Ord. No. 2001-053, § 3, 5-29-2001)

Sec. 78-154. Compensation and other payments.

(a) Compensation.

- (1) *Generally.* As compensation for any franchise or license granted pursuant to this article, an owner, facilities provider, sub-tenant or grantee, person or entity, for use

of facilities located in the right-of-way, unless negotiated in a separate agreement between the city and educational institutions or a governmental body, shall have the following obligations:

- a. *Application fee.* In addition to all other fees, permits or charges, an owner shall pay to the city at the time of application, or amendment to its application, a deposit as provided in the city fee schedule on the application fee. An applicant will be assessed an additional application fee at the end of the review process should the city's actual costs of reviewing the application exceed the minimum fee. This fee will be equal to 100 percent of the city's costs (including administration overhead, legal, consulting, etc.) for administering the application. Any unused portion of the deposit shall be returned to the applicant.
- b. *Franchise or license fees.* Any person subject to the terms of this article shall become obligated to pay franchise or license fees and shall commence making payment of such fees on the completion date, or if such person is already providing services over the system, on the date of passage of the ordinance from which this article is derived, unless another date is provided for in this article. Commencing on the completion or other specified date, a grantee or other person subject to the terms of this article shall pay to the city as reimbursement for costs associated with allowing access to the right-of-way and as fair compensation for the use of the right-of-way the following franchise or license fees:

1. *Payment for classification of services of utilities.*
 - (i) *Fee for use of right-of-way.* As a fee for a franchise or license for an electric utility franchise, a fee of two

percent of annual gross revenues. As a fee for a franchise or license for a natural gas utility franchise, a fee of zero percent of annual gross revenues. As a fee for a franchise or license for a water utility franchise, a fee of zero percent of annual gross revenues. As a fee for a franchise or license for a telecommunications system, a fee of one-fourth of one percent of annual gross revenues from providing Internet-related services, one percent of annual gross revenues for leasing excess capacity to another, and on all other services or goods one-half of one percent of annual gross revenues, or the minimum fee set forth in subsection (a)(1)b.3 of this section, whichever is greater. Fees initially established at zero percent by the enactment of the ordinance from which this article is derived may be increased any time after the first anniversary of the passage of such ordinance, and thereafter may be increased up to an additional one percent of annual gross revenues once every four years from the effective date of such increase. All other fees may be increased up to an additional one percent of annual gross revenues once every four years from the effective date of such ordinance by a vote of the board.

- (ii) *Alternative compensation.*
 - A. In the event any fee based on a percent-

age of gross revenues is found to be invalid by a court or other body of competent jurisdiction, and following the exhaustion of any appellate reviews or other court action, then the rental for use of the right-of-way for that classification of services shall be computed by determining the assessed value of the land through which the right-of-way runs or is located, the fair market rental for such land and assessing such charge on a per linear foot basis for actual linear feet of pipe, hose, tube, conduit, cable, wire or other device a utility system or telecommunications system is physically occupying space on the right-of-way for. Within 90 days of a determination of the invalidity of the gross revenues percentage as a fair rental charge for any classification of service, the city shall determine the per linear foot basis to be assessed against any franchisee or licensee for that classification of services under the aforementioned formula. The fee may be assessed by dividing the last total annual franchise fee paid by a

cable television provider by the total linear feet of cable plant owned by such provider. This per linear foot rental charge shall become due and owing from each grantee, owner or other person subject to the terms of this article for whom the gross revenue percentage is no longer applicable, from the date of the court or other decision relieving the owner, grantee or other person of the obligation to pay the gross revenue percentage fee, or the date of any refund ordered pursuant to such order. This linear foot charge shall be increased every two years by "The Consumer Price Index: All Urban Consumers: U.S. City Average: All Items: 1982-1984 + 100.0," or similar adjustment mechanism selected by the board. The board may authorize a reduction in the payment of this fee by amounts paid under the city's telephone electric utility license and occupation gross receipts tax.

- B. Should this linear foot charge be declared invalid by a court or other body

of competent jurisdiction, or in any way be preempted, relieving the owner, grantee or other person of the obligation to pay the linear foot charge, the board shall set the franchise fee rental payment within 180 days from the date of such declaration as it deems fit, or declare the grant of a franchise, license or separately negotiated agreement null and void with the affect that such agreements confer no rights upon the grantees to continue to occupy the right-of-way and shall be deemed to have been revoked. However, should the board not set a rental fee payment within such time period, or declare that affected franchises, license or separately negotiated agreements are null and void, it shall be deemed to have reserved the right to set an alternative fee at a later date which shall be binding on all persons to whom this article applies. Payment of such fee as set by the board shall become payable immediately upon approval by the board. No such fee shall be set without a public hearing thereon.

C. Failure to pay such franchise or license fee based on gross revenue, per linear assessment or such other compensation as set by the board shall be deemed a material breach of the franchise or license and this article and may constitute grounds for ejection from the right-of-way by any means available to the city, and the denial of any permits for work within the right-of-way, together with such collection or other actions as the city attorney may deem appropriate.

(iii) *Rental charge reduction by gross receipts tax.* To encourage development of telecommunications infrastructure within the city, payment of the license and occupation gross receipts tax by any franchisee, licensee or owner pursuant to section 82-27 may be used to reduce the rental charge computed on a percentage of gross revenues owed under this article for that portion of gross revenue from services the gross receipts tax is actually paid on for the quarterly payment period, but in no event shall such right to reduce the rental payment be construed as a credit for any payment period for franchise or license rental payments, or any other debt owned to the city by

any grantee, owner or other person subject to the terms of this article. Should the gross receipts tax imposed under section 82-27 (or any successor Code section) be deemed to be preempted or disallowed under any valid law, or repealed by same, the fee imposed under this article for rental of the right-of-way shall be immediately increased to at least three percent of gross revenues as defined under this article to those revenues to which the gross receipts tax would have applied under state law. This increase shall not inhibit in any way the right of the board to increase compensation by one percent every four years.

2. *Payment for use of open video system.* As a fee for a franchise or license for an open video system, a fee equal to three percent of annual gross revenues, or a fee equal to that paid by any cable television owner, whichever is greater. In the event such a gross revenue percentage is declared invalid, a rental fee as set out in subsection (a)(1)b.1.ii(A) of this section shall be determined, assessed, and collected.
3. *Minimum rental payment for use of right-of-way.* As a minimum rental fee for use of the right-of-way for any grantee, owner or other person subject to the terms of this article, who is not subject to the gross receipts tax under section 82-27 or a payment in lieu of such tax, and/or who is not subject to

- the charge for open video or telecommunications services under subsection (a)(1)b.1 or 2 of this section, there shall be an annual charge in the amount provided in the city fee schedule per linear foot which shall be adjusted annually for inflation by the consumer price index defined to be the index now known as "The Consumer Price Index: All Urban Consumers: U.S. City Average: All Items: 1982—1984 + 100.0" due and payable January 1 of each year following commencement of construction in the right-of-way. This minimum rental payment shall apply to all occupiers of the right-of-way whether or not gross revenues are discernible for purposes of computing the fees set out in subsection (a)(1)b.1 of this section. However, any compensation from a governmental entity or educational institution shall be governed by a separately negotiated agreement.
4. *Cost for open excavation of right-of-way.* In addition, each owner, grantee or other person who is engaged in work on the right-of-way shall permit the city to place a conduit in any trench, ditch or excavation opened by such person on the right-of-way at the city's costs. The city may, in lieu of performing the work itself, reimburse the owner, grantee or other person their actual costs in placing such conduit for the city. Such person shall notify the city engineer of the city of the date, time and location where the conduit may be placed at the time an excavation or other permit is obtained to work on the right-of-way. These fees and ability to place a conduit in open excavation areas are intended to reimburse and compensate the city for:
- (i) The cost directly related to the inconvenience or impairment solely caused by disturbance of the right-of-way by an owner, licensee or franchisee;
 - (ii) The reasonable cost of all activity incurred by the city and in administering the franchise or license; and
 - (iii) A fair rental value for the right-of-way occupied by the owner, grantee or other persons using the right-of-way and subject to this article consistent with the state constitution and state law, recognizing that the fair market rental value for use of the right-of-way is greater than that initially charged under this article and has been reduced by payment of a pre-existing license and occupation gross receipts tax enacted pursuant to the city's lawful taxing authority to encourage telecommunications companies to construct infrastructure within the city.
- (2) *Payment due date.*
- a. Unless otherwise agreed to in writing, all franchise or license fees under this article shall be paid on a quarterly basis within 45 days of the close of each calendar quarter and accompanied by a statement showing the manner in which the fee was calculated, and shall be personally delivered or mailed to the finance director on or before the due date. If mailed, the postmark shall be con-

sidered the date of delivery. Any grantee or other person who has been granted an extension of up to one month to make a payment under this article shall pay interest at the rate of 1.5 percent per month on the fee due, without proration for a fraction of a month.

- b. Any grantee or other person required to pay a franchise or license fee under this article who has not been granted an extension of time for payment and who fails to remit the fee imposed for rental of the right-of-way prior or on its due date shall pay interest at the annual rate of 12 percent.
- c. No acceptance of any payment by the city shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the city may have for further or additional sums payable under the provisions of this article or a separate obligation imposed by another section of this Code or violations of any city ordinance. Acceptance of payments under this section shall not be construed as the city accepting the grantee's interpretation of the definition of gross revenues under this article or the application of the city's license and occupation gross receipts tax. All amounts paid shall be subject to audit and recomputation by the city.

(b) *Future costs.* A grantee shall pay to the city or to third parties, at the direction of the city, an amount equal to the reasonable costs and expenses that the city incurs for the services of third parties, including, but not limited to, attorneys and other consultants, in connection with any grantee-initiated interpretation of this article, transfer, amendment or other modification of this article or a franchisee's or licensee's or grantee's refusal to comply with provisions of this article provided that the city is a prevailing party in such

interpretation process. Any costs associated with any work to be done by the public works department or city-owned entity to provide space on city-owned poles or facilities, including street infrastructure, shall be borne by the owner unless agreed to before work is commenced in writing by the public works director.

(c) *Taxes and assessments.* To the extent taxes or other assessments are imposed by taxing authorities on the use of city property as a result of an owner's use or occupation of the right-of-way, the owner shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this article.

(d) *Fee statement.* Unless a franchise agreement or license provides otherwise, each franchise or license fee payment shall be accompanied by a statement showing the manner in which the fee was calculated. Further, within 90 days following the end of the calendar year, each person who paid a franchise or license fee based upon gross revenues shall submit a statement, certified as true, setting forth gross revenues of the utility facility or telecommunications facility, by category, and describing what revenues were included and excluded in the fee calculation, and any adjustments made to gross revenues.

(e) *Fee not in lieu of taxes.* The franchise or license fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this article, or as required by applicable law. By way of example, and not limitation, permit fees and fees to obtain space on city-owned poles are not waived and remain applicable.

(f) *Audits.* The city may, from time to time, and upon reasonable advance written notice, inspect and audit any and all books and records reasonably necessary to the determination of whether fees have been accurately computed and paid. A grantee may dispute and appeal any audit finding in the same manner as provided in section 78-133(d) for the imposition of penalties from the security fund.

(g) *Final payments.* Notwithstanding the foregoing, in the event that a grantee or other person who is obligated to pay a fee ceases to provide service for any reason (including as a result of a transfer), such grantee or other person shall make a final payment of any amounts owed to the city within 90 calendar days of the date its operations in the city cease, and shall provide a statement of gross revenues for the calendar year through the dates operations ceased.

(h) *Continuing obligation and holdover.* In the event a grantee or owner continues to operate all or any part of the system after the revocation of the franchise or license, or notice to cease operations from the city, such grantee or owner shall continue to comply with all applicable provisions of the franchise or license, including, without limitation, all compensation and other payment provisions of the franchise or license, throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a waiver, renewal, granting or other extension of the franchise or license, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term.

(i) *Costs of publication.* A grantee or applicant shall assume any publication costs associated with its franchise or license that may be required by law.

(j) *No accord and satisfaction.* No acceptance by the city of any franchise or license fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such franchise or license fee payment be construed as a release of any claim the city may have for additional sums payable under another provision of this Code, or violations of any ordinance, law, franchise or license.

(Code 2005, § 78-94; Ord. No. 2001-053, § 4, 5-29-2001)

Sec. 78-155. Franchise and license applications.

(a) Application.

- (1) To obtain a franchise or license to construct, own, operate, or maintain any utility system or telecommunications system

or open video system within the city, to expand a franchisee's current permitted franchise area, or expand a licensee's current permitted license areas, to re-obtain a franchise or license pursuant to this article, or to obtain city approval of a sale, transfer, or other disposal of a utility system or telecommunications system, open video system, franchise or license granted pursuant to this article, an application must be filed with the city on forms approved by the finance director, public works director, and the city attorney. The applicant shall provide information with respect to the following:

- a. Identity and legal status of the registrant, including related affiliates.
- b. Name, address, telephone number, E-mail address and fax number of the officer, agent, or employee responsible for the accuracy of the registration statement.
- c. Name, address, telephone number, E-mail address and fax number of the representative of the registrant who shall be available at all times to act on behalf of the registrant in the event of an emergency.
- d. Description of the registrant's existing or proposed facilities within the city.
- e. Information sufficient to determine whether the registrant is subject to certification under state law and franchising or licensing by the city under this article.
- f. Information sufficient to determine whether the registrant has applied for and received any certificate of authority required by the state public service commission to provide utility services in the city.
- g. Information sufficient to determine that the registrant has applied for and received any construction permit, operating license or other approvals required by the Federal Com-

- munications Commission to provide communications services in the city.
- h. Such other information as may be required by the city to complete the registration statement.
- i. The name of the agent upon whom notices may be served by the city.
- (2) An applicant shall be responsible for updating its application information following the grant of a franchise or a license on an annual basis except that a change in the agent upon whom notice may be served shall be made within five days of the change.
- (b) *Factors to be considered.*
- (1) In making a determination as to an application filed pursuant to this article, the city may consider all factors consistent with applicable law, including without limitation, the following:
- a. The applicant's financial ability to compensate the city for the applicant's intrusion, maintenance and use of the right-of-way during the continuance of any franchise or license proposed by the applicant as well as the financial ability to indemnify and hold the city harmless for injuries and damages resulting from the applicant's construction, maintenance, operation or repair of facilities on the rights-of-way, together with the applicant's history of payment of license, tax and rental fees to city. However, an applicant with a net worth of at least \$5,000,000.00 shall be a presumed to have met this factor;
- b. The ability of the applicant to construct, maintain and operate a utility system or telecommunications system or open video system in a manner which protects and makes efficient and safe use of the right-of-way and to protect the city's property and the public's safety. However, an applicant who has received state public service commission approval to construct facilities within the state, or who has received similar approval in another state, shall be presumed to have met this factor;
- (2) The capacity of the right-of-way to accommodate the applicant's proposed facilities;
- d. The capacity of the right-of-way to accommodate additional pavement improvements and utility and telecommunications facilities if the franchise or license is granted;
- e. The damage or disruption, if any, of public or private facilities, improvements, or landscaping if the franchise or license is granted;
- f. The public interest in minimizing the cost and disruption of construction within the right-of-way;
- g. The effect, if any, on public health, safety and welfare if the franchise or license is granted;
- h. Applicable federal and state utilities and telecommunications laws, regulations and policies;
- i. Such other factors as may demonstrate that the grant to use the public ways will or will not serve the community interest together with any other public interests factors or considerations that the city has a lawful right to consider and that are deemed pertinent to safeguarding the needs of the city and the public.
- (2) The city, in its discretion, shall determine the award of any franchise or license on the basis of these and other relevant considerations without competitive bidding and may impose additional security and insurance requirements on applicants whose conduct in other jurisdictions or within the city establishes conduct that would be a violation of this article if committed within the city. Consistent with applicable law, the city may develop and implement policies and requirements to

ensure that the streets have sufficient capacity reasonably to accommodate existing and future uses in a rational and efficient manner.

(Code 2005, § 78-95; Ord. No. 2001-053, § 5, 5-29-2001)

Sec. 78-156. Construction and technical requirements.

(a) *General requirements.* No applicant, or other person, shall receive a franchise or license unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other requirements or procedures specified by this Code, the public works director, the franchise or the license. No person except educational institutions or governmental entities with separately negotiated agreements shall be granted any permit for work in the right-of-way until such time as a franchise or license has been obtained pursuant to the terms of this article.

(b) *Quality.* All work involved in the construction, operation, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality so as not to create a hazard or dangerous condition on the right-of-way in accordance with specifications of the public works director, where applicable. If, at any time, it is determined by the city or any other agency or authority of competent jurisdiction that any part of the system or facilities, including, without limitation, any means used to distribute signals over or within the system, presents a danger to the public health, safety or welfare, then, at the city's option, the grantee shall cease and desist all work until, at its own cost and expense, it promptly corrects all such conditions. Should the city have to correct any such condition, the grantee shall promptly reimburse the city its actual costs for correcting such condition. If the grantee fails to so reimburse the city, the city may take whatever actions are necessary to collect such costs and the grantee shall be ineligible for any other permits or to perform work on the right-of-way until such costs are paid.

(c) Licenses and permits.

- (1) A grantee shall obtain all permits required by this Code at its sole cost from the city before commencing any work requiring a permit, including the opening or disturbance of any street or public property or public easement within the city. The grantee shall strictly adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the system in the city. Any contractors or subcontractors utilized by the grantee shall be duly licensed by the state and in accordance with all applicable local ordinances of city.
- (2) The city shall have the right to inspect all construction or installation work performed pursuant to the provisions of this article and to make such tests as it shall find necessary to ensure compliance with the terms of this article and applicable provisions of local, state and federal law within the city's jurisdiction and authority. A grantee shall notify the city engineer of any work in a street on the Thursday of the week preceding commencement of work.

(d) Relocation of system.

- (1) *Changes required for public improvements.*
 - a. If any of the following shall take place any time during the term of the franchise or license or while a grantee's facilities or system are within the right-of-way, within the franchise or license area, in a manner affecting the system, then a grantee or any other person holding an ownership interest in any utility system or facilities or telecommunications system or facilities, at its own cost and expense and upon reasonable notice by the city, shall promptly protect or promptly alter or relocate the system, or part thereof, so as to conform with such new grades or lines or as necessary to not inter-

- fere with the city project or work in accordance with a schedule approved by the public works director:
1. To prevent interference with a present or future city use of the right-of-way;
 2. To prevent interference with a public improvement undertaken by the city, including, but not limited to, a change in grade or lines of the right-of-way or infrastructure therein;
 3. When necessary because of traffic congestion, street vacations, freeway grading, sewer, drain, or tract installations or to otherwise prevent interference with the safety and convenience of ordinary travel over the right-of-way;
 4. If the grantee's property has not been removed following abandonment thereof under this article;
 5. When required to protect the public health, safety and welfare.
- b. In the event that a grantee or such other person unreasonably refuses or neglects to so protect, alter or relocate all or part of the system, the city shall have the right to break through, remove, alter or relocate such part of the system without any liability to an owner, grantee or other person, or customers of the grantee or other person or others. The grantee or other persons subject to the terms of this article shall pay to the city the costs, including overhead incurred in connection with such breaking through, removal, alteration or relocation and indemnify and hold the city harmless for any claims arising out of the city breaking through, removing, altering or relocating such system or part thereof.
- (2) *City's emergency authority to move system.* The city may, at any time, in case of fire, disaster or other emergency, as determined by the city's officials in their reasonable discretion, cut or move any part or parts of a system and appurtenances on, over or under the right-of-way of the city, in which event the city shall not be liable therefor to an owner, grantee or other person, its service area or customers. The city shall notify an owner, grantee, or other person owning an interest in the facilities or property to be moved, if such person has provided the city with a local agent for this purpose, in writing prior to, if practicable, but in any event as soon as possible and in no case later than three business days, following any action taken under this section.
- (3) *Grantees and owners required to move system.* An owner, or grantee, upon prior written notice by the city or any person holding a permit to move any structure, shall temporarily move any part of its system or facilities to permit the moving of such structure. Such movement of the owner's or grantee's system or facilities shall be undertaken within a reasonable time period under the circumstances. An owner or grantee may impose a reasonable charge on any person other than the city, or its contractors performing city work, for any such movement of its wires or facilities or system.
- (e) *Protection of structures.* In connection with the construction, operation, maintenance, repair, upgrade or removal of the system, a grantee shall, at its own cost and expense, protect any and all existing structures or drainage facilities belonging to the city and all designated landmarks, as well as all other structures within any designated landmark district. The grantee shall obtain the prior written approval of the city before altering any power facility, sewerage or drainage system, or any other municipal structure on, over or under the right-of-way of the city required because of the presence of the system. Any such alteration shall be made by the grantee at its own cost and expense and in a manner prescribed by

the city. A grantee agrees that it shall be liable, at its own cost and expense, to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any municipal structure or any other right-of-way involved in the construction, operation, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a grantee.

(f) *Obstructing right-of-way or travel.* In connection with the construction, operation, maintenance, upgrade, repair or removal of the system, a grantee shall not unreasonably obstruct the right-of-way of the city, subways, fixed guideway systems, railways, passenger travel, or other traffic to, from or within the franchise or license area without the prior consent of the appropriate authorities.

(g) *Safety precautions.* A grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by law or industry standards, custom and practice, if applicable. A grantee shall comply with all applicable federal, state and local requirements, including, but not limited to, the National Electrical Safety Code.

(h) *Repair of right-of-way and property.* Any and all right-of-way or public property or private property which is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly repaired by the grantee, at its expense, to a condition as good as that prevailing prior to construction. If the grantee fails to repair or replace or otherwise correct a street or property, the city may draw on its security fund provided for in section 78-133(b) or the performance bond provided for in section 78-133(a) and complete any repair, replacement or other correction. If no security fund or performance bond is available, the grantee shall pay, within 20 days of receipt, the invoice for the city's actual costs in repairing the right-of-way to a condition as good as that prevailing prior to

construction. Repair work, whether performed by the grantee or any other person, shall be to the specifications and requirements of the public works director as amended from time to time and on file with the city clerk. Changes in the specifications for repair to the right-of-way shall be approved by the board by way of a resolution.

(i) *System maintenance.* A grantee shall:

- (1) Put, keep and maintain all parts of its utility system or telecommunications system or open video system on the right-of-way in good condition throughout the entire period of its franchise or license so as not to create the possibility of injury to any person, or property, including the right-of-way itself.
- (2) Install and maintain its utility systems or telecommunications systems and open video system in accordance with standard good engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations, including specifications developed and adopted by the public works director. Failure to install and maintain utility facilities and systems or telecommunications facilities and systems and open video systems in accordance with the public works director's specifications shall relieve any party, including the city, from liability for cutting, damaging or otherwise injuring the system.
- (3) At all reasonable times, permit examination, by any duly authorized representative of the city, of the system, together with any appurtenant property of a grantee situated within or on right-of-way or other property.

(j) *Trimming of trees.* An owner or grantee shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinances and easement restrictions, upon and hanging over right-of-way so as to prevent the branches of such trees from coming in contact with its system. City representatives shall have

authority to supervise and approve all trimming of trees and shall receive at least 48 hours' notice prior to any tree trimming activity.

(Code 2005, § 78-96; Ord. No. 2001-053, § 6, 5-29-2001)

Sec. 78-157. Transfer of franchise, license or waiver.

(a) *Consent of city required; exceptions.* No grantee shall sell, transfer, assign, or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, a franchise or license, or waiver of either, granted pursuant to this article, or any of the rights or privileges granted by the city to a grantee, without the prior written consent of the city. This provision shall not apply to sales of property or equipment by a grantee in the normal course of business. No consent from the city shall be required for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership or other entity controlling, controlled by or under common control with a grantee. Such consent shall not be unreasonably withheld. The grantee shall supply the city with such information as the city shall deem necessary to determine the qualifications of the transferee. The city shall inform the grantee 20 days following the receipt of notice of the intended transfer, sale, or disposition of the whole or in part of the system of what information it shall require to evaluate the proposed transfer. The decision of the board shall be made within 60 days following receipt of the information.

(b) *Events deemed a sale.* Except as provided in subsection (a) of this section, the following events shall be deemed to be a sale, assignment or other transfer of the franchise or license requiring compliance with this section:

- (1) The sale, assignment or other transfer of all or a majority of a grantee's assets to another person;
- (2) The sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a grantee by one or more of its existing shareholders,

partners, members or other equity owners so as to create a new controlling interest in a grantee;

- (3) The issuance of additional capital stock or partnership, membership or other equity interest by a grantee so as to create a new controlling interest in such an entity;
- (4) The entry by a grantee into an agreement with respect to the management or operation of such grantee or its utility system or telecommunications system or open video system; and
- (5) The lease or entry into any other agreement giving up control over the transmission of signals, data or other information of any kind whatsoever of over one-half of the system located within the city to another legal entity or nonaffiliated person.

The term "controlling interest" as used in this section means majority equity ownership of a grantee.

(c) *Notice of foreclosure or judicial sale.* A grantee shall notify the city in writing of any foreclosure or any other judicial sale or filing of bankruptcy involving all or a substantial part of its franchise or license property or system or upon the termination of any lease or interest covering all or a substantial part of such property or system. Such notification shall be considered by the city as notice that a change in control of ownership of the grantee has occurred and the provision under this section governing the consent of the city to such exchange in control of ownership shall apply.

(Code 2005, § 78-97; Ord. No. 2001-053, § 7, 5-29-2001)

Sec. 78-158. Oversight and financial responsibility.

- (a) *Performance bond.*

- (1) At the time that any grantee, or any person granted an exception under section 78-128(c), obtains any permit for work on the right-of-way, such grantee or excepted person shall supply to the city proof of a bond to run to the city in the penal sum of \$100,000.00 or such other

sum in the amount of the work to be performed and sufficient to restore the right-of-way, whichever is less. This amount may be increased by action of the board upon notice to all holders of licenses and franchises and a public hearing thereon prior to passage. The bond shall be conditioned upon the faithful performance of the grantee of all terms and conditions of the franchise. The rights reserved to the city with respect to the bond or other security are in addition to all other rights the city may have under this article or any other law. The company providing such bond must be licensed to do business in the state. A bond may be supplied by a contractor of the grantee or excepted person.

- (2) The bond shall be subject to the approval of the city attorney and shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled without the consent of the city until 60 days after receipt by the city by registered mail, return receipt requested, of a written notice of intent to cancel or not to renew."
 - (3) A requirement for a bond may be waived by the public works director for grantees with net worth of at least \$5,000,000.00 upon a request by a grantee for such a waiver. Should the grantee fail to repair or restore the right-of-way in accordance with specifications of the public works director and on file with the city clerk, a bond may be required for future work on the right-of-way. This amount shall increase by five percent each year following the passage of this article.
 - (4) The city shall be entitled to collect from the grantee the cost of repair or restoring the right-of-way by any lawful means available to it, including drawing upon the security fund required by this article.
- (b) *Security fund.*
- (1) If a grantee is found to have more than two violations or breaches of provisions of this article through any means, including,

but not limited to, failing to obtain permits, to restore the right-of-way to the specifications of the city or the public works director, to pay fees for use of the right-of-way, or to provide notice of construction activities, such grantee shall deposit into a bank account, established by the city, and maintain on deposit through the life of its franchise or license, the sum of \$50,000.00 as a common security fund for the faithful performance by it of all the provisions of the franchise and compliance with all orders, permits and directions of the city and the payment by the grantee of any claim, liens, costs, expenses and taxes due the city which arise by reason of the construction, operation or maintenance of the system. The grantee shall be informed in writing prior to being required to post such security fund of the nature of the violations and be allowed at least 30 days to dispute any asserted violation. Failure to provide a security fund as required in this section shall be good cause to refuse to issue any permits for work within the right-of-way. This fund may be released to the grantee after faithful performance of the terms and conditions of this article without further violation for a period of three years.

- (2) Interest on this deposit shall be paid to the grantee by the bank in which such fund is on deposit on an annual basis.
- (3) The manner in which the city may withdraw funds from the security fund shall be specified on the document evidencing the security fund. The grantee shall not use the security fund for other purposes and shall not assign, pledge or otherwise use this security fund as security for any purpose. The city reserves the right, to increase the required amount of the security fund to match changes in the Consumer Price Index for All Items and All Urban Consumers.
- (4) Within ten days after notice to it that any amount has been withdrawn by the city from the security fund pursuant to subsection (b)(1) of this section, the grantee

shall deposit a sum of money sufficient to restore such security fund to the required amount.

- (5) If an owner or grantee fails to pay to the city any taxes or franchise or license fees due and unpaid; or fails to repay to the city any damages, costs or expenses which the city shall be compelled to pay by reason of any act or default of the grantee in connection with a license or franchise; or fails, after ten days' notice of such failure by the city, to comply with any provision of the franchise which the city reasonably determines can be remedied by an expenditure of the security, the city may then withdraw such funds from the security fund, including all costs to obtain an interpretation of the license or franchise or this article, including, but not limited to, arbitration, all costs to defend itself in any lawsuit or action brought by the grantee or another person seeking an interpretation of any section of this article or the expenses incurred by the city as a result of a failure of the grantee to perform or pay funds when due under any other section of this article. Payments under this section shall not be construed to be franchise or license fees required in section 78-129(a)(1).

(c) *Civil penalties for violations.* In addition to any other remedies provided in this article, civil penalties for violations of the franchise are set forth below. As a result of any acts or omissions by the grantee pursuant to the franchise or license granted under this article or violation of this article, the city may charge to, and collect from, the security fund or the grantee by any means available the following penalties, which shall accrue from the day the violation first occurred, or at the time of discovery of the violation, at the discretion of the city administrator:

- (1) For failure to complete any construction, identification of location of facilities in the right-of-way, or to move facilities in a timely fashion in accordance with this article unless the city approves the delay,

the penalty shall be \$300.00 per day for each day, or part thereof, such failure occurs or continues.

- (2) For failure to provide data, documents, reports or information regarding the system or gross revenues or to cooperate or participate with the city during a financial audit or inspection of the system, the penalty shall be \$300.00 per day.
- (3) For an inadvertent failure to comply with any provision of this article or special conditions, the penalty shall be \$100.00 a day.
- (4) For a violation for which a penalty is not otherwise specifically provided, the penalty shall be \$300.00 on occurrence and for each day thereafter such failure continues.
- (5) For failure to comply with all conditions of the city permits to disturb streets, fix streets, or other terms or conditions of the city, the penalty shall be \$300.00 per day in addition to any other costs to the grantee provided for in this article such as the cost for the city to repair or restore the right-of-way.
- (6) For failure to give notices required in the franchise to the city or departments of the city, the penalty shall be \$300.00 per day.
- (7) Violations of this article may also be subject to the imposition of penalties contained in section 1-13 at the discretion of the city prosecutor.
- (d) *Procedure for imposition of penalties.*
- (1) Whenever the city finds that a grantee has allegedly violated one or more terms, conditions or provisions of this article, a written notice specifying the action or omission complained of and the section of this article violated shall be given to such grantee by delivery to the person identified in the certificate of acceptance. The written notice shall describe in reasonable detail the alleged violation so as to afford the grantee an opportunity to remedy the violation. The grantee shall have 30 days after receipt to correct or present

a plan of action to correct the violation before the city may resort to the security fund. The grantee may, within 15 days of receipt of notice, notify the city that there is a dispute as to whether a violation or failure has, in fact, occurred or that there is any defect in the notice of violation served on the grantee. Failure to identify any defect in such notice shall be deemed a waiver of same by the grantee. Such notice by the owner or grantee to the city shall specify with particularity the matters disputed by the grantee and shall stay the running of the above-described time pending a hearing as outlined below.

- a. The city administrator shall appoint a hearing officer who shall hear evidence in accordance with the procedures in RSMo ch. 536. The hearing officer shall render a decision and shall make written findings of fact and law relative to his decision as to whether or not a violation of the franchise, license or ordinance has occurred.
 - b. If, after an RSMo ch. 536 hearing, the hearing officer finds a violation or failure to act exists, the hearing officer shall determine the reasonable time period appropriate to remedy the violation or failure as a part of the decision. At any time after that period has expired, the city may draw against the security fund all penalties due it if the city administrator so authorizes in writing and the grantee shall promptly provide sufficient funds to bring the security fund up to the amount required in this article to be available to the city or, if no security fund is established, promptly pay the penalties imposed.
 - (2) The time for a grantee to correct any alleged violation may be extended by the city if the necessary action to correct the alleged violation is of such a nature or character to require more than the time set by the hearing officer within which to perform, provided a grantee commences the corrective action within the time period set forth in the hearing officer's decision and thereafter uses reasonable diligence, as determined by the city, to correct the violation.
 - (3) The security fund deposited pursuant to this section shall become the property of the city in the event that the franchise or license is canceled by reason of the default of the owner or grantee or revoked for cause. The grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the franchise or license.
 - (4) The rights reserved to the city with respect to the security fund are in addition to all other rights of the city whether reserved by this article or authorized by law to enforce any provision of this article or other provision of this Code or applicable law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the city may have.
 - (5) The city shall stay or waive the imposition of any penalties set forth in this section upon a finding that any failure or delay is a result of an act of God or due to circumstances beyond the reasonable control of an owner or grantee.
- (e) *Damages and defense.*
- (1) Any grantees and any persons subject to the terms of this article but who have not obtained a franchise or a license under this article shall indemnify, defend, and hold harmless the city for all damages and penalties, at all times during the term of the license or franchise, as a result of the procedures for granting or denial of the license or franchise, the grantee's conduct or performance under this article, or a license or franchise. These damages and penalties shall include, but not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omission, theft, fire, and all

other damages arising out of the grantee's or any other person's exercise of the privileges extended under this article, whether or not any act or omission complained of is authorized, allowed or prohibited by this article or the city; such indemnification shall include, but not be limited to, reasonable attorney's fees and costs and shall cover all manner of litigation regardless of who the parties are.

- (2) In order for the city to assert its rights to be indemnified, defended, or held harmless, the city must:
 - a. Notify the grantee of any claim or legal proceeding which gives rise to such right;
 - b. Afford the grantee or any excepted person the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding, unless, however, the city, in its sole discretion, determines that its interests cannot be represented in good faith by the grantee;
 - c. Fully cooperate with the reasonable requests of the grantee, at the grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to subsection (e)(2)b of this section; and
 - d. Act reasonably under all circumstances so as to protect the indemnitee against liability and refrain from compromising any of the indemnitee's rights. However, no claim shall be settled or compromised without prior notice to the city and without the consent of the city.
- (3) In the event the city, in its sole discretion, determines that its interests cannot be represented in good faith by the grantee, the grantee shall pay all expenses incurred by the city in defending itself with regard to all damages and penalties mentioned in subsection (e)(1) of this section. The city shall inform the grantee of the

reasons for such action. These expenses shall include all out-of-pocket expenses, such as attorney's fees and costs.

- (f) *Liability insurance.*
 - (1) The grantee shall maintain, throughout the term of any license or franchise, liability insurance with a company licensed to do business in the state.
 - (2) The policy shall be in accordance with section 2-287.
 - (3) If the grantee sells or transfers its interests in the use or ownership of a system, or in the event of termination or revocation of this franchise, an insurance tail, reasonably acceptable to the city, shall be purchased and filed with the city for the then applicable amounts, providing coverage for the time periods according to applicable statutes of limitation, insurance for any issues attributable to the period the grantee held the license or franchise.
 - (4) At the time of acceptance, the grantee shall furnish to the city a certificate evidencing that a satisfactory insurance policy has been obtained. Such certificate shall be approved by the city and such insurance policy shall require that the city be notified 30 days prior to any expiration or cancellation.
 - (5) All insurance policies maintained pursuant to this section shall contain the following endorsement: "It is hereby understood and agreed that this insurance policy may not be canceled by the surety, nor may the intention not to renew be stated by the surety until 30 days after receipt by the city, by registered mail, of a written notice of such intention to cancel or not to renew."
 - (6) In addition, it shall be the obligation of the grantee promptly to notify the city of any pending or threatened litigation that would be likely to affect its insurance coverage.

(g) *Maintenance of records.* A grantee shall at all times maintain and make available to the public works director upon request:

- (1) A full and complete set of plans, records and "as-built" hard copy maps or provide in electronic format compatible with the city's existing GIS system, or a successor system, of all existing and proposed facilities locations to property lines and depth or height of same, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights-of-way where work will be undertaken. A grantee need not disclose the number of fibers or other components contained within a facility to the city or other information deemed proprietary provided such information is deemed not necessary by the public works director for purposes of managing the use of the right-of-way or ensuring the safety of the public or the rights-of-way themselves. The electronic format to be submitted shall be to state plane coordinates using 1983 datum in one of the following formats:
 - a. Arch/Info export file;
 - b. Arch/Info coverage file;
 - c. AutoCAD drawing file; or
 - d. A dxf. file.

The public works director may specify a different electronic format as needed for the public works department or such other city department assigned the responsibility to maintain an electronic database of information relative to the right-of-way, to evaluate and maintain an adequate database of infrastructure information in his sole discretion. However, nothing in this section shall be construed to require any grantee to create maps or records of plant or facilities existing as of the date of the passage of the ordinance from which this article is derived, the maps or records for which do not already exist.

- (2) Throughout the term of any franchise or license, the grantee shall maintain com-

plete and accurate books of account and records of the business, ownership, and operations of a grantee with respect to the system in a manner that allows the city at all times to determine whether a grantee is in compliance with the franchise or license. Should the city reasonably determine that the records are not being maintained in such a manner, an owner or grantee shall alter the manner in which the books and/or records are maintained or provide reasonable access to information necessary for the city to determine if an owner or grantee is in compliance with this section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the state and generally accepted accounting principles shall be deemed to be acceptable under this section. An owner or grantee shall also maintain and provide such additional books and records as the city deems reasonably necessary to ensure proper accounting of all payments due the city.

(h) *Additional information and reports.* Upon the request of the city, a grantee shall, within a reasonable time, submit to the city any information or report reasonably related to a grantee's obligations under this article and any license or franchise, its business and operations, or those of any affiliated person, with respect to the system or its operation, or payment for, or revenue received, for any service distributed over the system, in such form and containing such information as the city shall specify. Such information or report shall be accurate and complete and supplied within ten business days or at a time mutually agreed to by the city and the grantee.

(i) *Confidentiality.* If the information required to be submitted in any report, map, data compilation or other writing is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a grantee such information shall be treated as confidential, making it available only to those persons who must have access to perform their duties on behalf of the city, including, but not limited to, the finance depart-

ment, the office of the city attorney and the mayor and board, provided that a grantee notifies the city, and clearly labels the information which a grantee deems to be confidential or proprietary information. Such notification and labeling shall be the sole responsibility of the franchisee. To the extent the Government Records Management Access Act (GRMAA) or any other federal requirement for privacy applies to the information to be submitted, such law shall control.

(j) *Payment of costs of reports and records.* All reports and records required under this article shall be furnished at the sole expense of an owner or grantee, except as otherwise provided in this article, a licensee or a franchisee.

(k) *Right of inspection.* The city's designated representatives shall have the right to inspect, examine or audit during normal business hours, and upon reasonable notice to a grantee under the circumstances, all documents, records or other information which pertain to a grantee or any affiliated person with respect to the system, its operation, installation and maintenance, and services distributed over the system, and with respect to a grantee's obligations pursuant to the license, franchise or this article, including payment of the rental fee. All such documents shall be made available within the city or in such other place that the city may agree upon in writing in order to facilitate such inspection, examination, or audit; provided, however, that if such documents are located outside of the city, then a grantee shall pay the reasonable expenses incurred by the city's designated representatives in traveling to such location. In no event shall the city be required to have its employees, agents or officers travel outside the continental United States to review such documents, records or information. (Code 2005, § 78-98; Ord. No. 2001-053, § 8, 5-29-2001; Ord. No. 2009-075, § 1, 10-13-2009)

Sec. 78-159. Rights of city.

(a) Enforcement and remedies.

(1) *Administration and enforcement generally.* The city is responsible for enforcing and administering this article, and the

city is authorized to give any notice required by law or under any franchise agreement.

- (2) *City's right to revoke.* In addition to all other rights which the city has pursuant to law or equity, the city reserves the right to revoke, terminate or cancel any license or franchise granted under this article, or any separately negotiated agreement with any person, educational institution or governmental body, and all rights and privileges pertaining thereto, and may eject any owner, facilities provider or person from the right-of-way whose license, franchise or agreement has been revoked.
- a. A license or franchise may be revoked in the event that:
1. The grantee substantially and materially violates any material provision of this franchise, or state or federal law, applicable to the grantee's operation within the city, including the payment of rental or compensation fees due under this article and restoration of the right-of-way as required;
 2. The grantee attempts to evade any of the material provisions of this article or provision of applicable local, state or federal law and refuses to cure it;
 3. The grantee practices any fraud or deceit upon the city;
 4. The grantee becomes insolvent, or unable or unwilling to pay its debts, or is adjudged as bankrupt;
 5. The grantee materially misrepresents a fact in the application for or negotiation of, or renegotiation of, or renewal of, the franchise or license granted under this article;
 6. The grantee fails to pay all fees required to be paid under this article upon written demand to do so together with any penal-

- ties or interest due or to restore the right-of-way in accordance with specifications and standards of the public works department;
7. The grantee has not actively used any portion of its utility system or facility or telecommunications system or facility in the right-of-way for utility or telecommunications purposes, or is not engaged in the utility or telecommunications business within the state for a period of 18 months without the express written consent of the city administrator; or
 8. The grantee's presence in the right-of-way poses a threat of harm to the safety of the public or the continued integrity of the right-of-way.
- b. A separately negotiated agreement with an educational institution or governmental body, being discretionary and a privilege only, from the requirement of a license or franchise, may also be revoked by action of the board without specific cause.

(b) *Revocation procedures.* In the event that the city determines that the grantee has violated any material provision of the franchise, or any applicable material federal, state or local law, the city may make a written demand on the grantee that it remedy such violation and that continued violation may be cause for revocation. If the violation, breach, failure, refusal, or neglect is not remedied to the satisfaction of the city within 30 days following such demand, the city shall determine whether or not such violation, breach, failure, refusal or neglect by the grantee is due to acts of God or other causes which result from circumstances beyond the grantee's control.

- (1) The city administrator may designate a hearing officer, according to the same requirements and procedures described in section 78-133(d), or, alternatively, a public hearing shall be held and the grantee

shall be provided with an opportunity to be heard. The causes for pending revocation and the reasons alleged to constitute such cause shall be recited in a notice to the grantee. Such notice shall affirmatively recite the causes that need to be shown by the city to support a revocation.

- (2) If notice is given and, after a public hearing or hearing by a hearing officer is held, the city determines there is a violation, breach, failure, refusal or neglect by the grantee, the city shall direct the grantee to correct or remedy the same within such reasonable additional time, in such manner and upon such reasonable terms and conditions as the city may direct. The city may order the suspension of any permits issued by the city, including business licenses and occupancy permits, and order city utilities to disconnect all utilities from the grantee's premises upon notification that a final order has been issued which has terminated the franchise pursuant to this article.
- (3) If, after a public hearing or hearing by a hearing officer, it is determined that the grantee's performance of any of the terms, conditions, obligations, or requirements of franchise was prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof, provided the grantee has notified the city in writing within 15 days of its receipt of notice of the breach of such cause. Such causes beyond the grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, acts of God, civil emergencies and labor strikes.
- (4) If, after notice is given and opportunity to cure, at the grantee's option, a public hearing is held, the city determines there was a violation, breach, failure, refusal or neglect, then the city may declare, by resolution, the franchise revoked and canceled and of no further force and effect unless there is compliance within such

period as the city may fix, such period not to be less than 30 days, provided no opportunity for compliance need be granted for fraud or misrepresentation.

- (5) The issue of revocation shall automatically be placed upon the board agenda at the expiration of the time set by it for compliance. The city then may terminate a license or franchise forthwith upon finding that the grantee has failed to achieve compliance or may further extend the period, in its discretion.
- (6) If the city, after notice is given and, at the grantee's option, a full public proceeding is held and appeal is exhausted, declares the franchise breached, the parties may pursue their remedies pursuant to the franchise or any other remedy, legal or equitable, including ejectment from the right-of-way.

(c) *Foreclosure.* Upon the foreclosure or other judicial sale of the utility system or facilities or telecommunications system or facilities of a grantee, the grantee shall notify the city of such fact and such notification shall be treated as a notification that a change in control of the grantee has taken place, and the provisions of this franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

(d) *Receivership.* The city shall have the right to cancel a license or franchise subject to any applicable provisions of state law, including the Bankruptcy Act, 120 days after the appointment of a receiver or trustee to take over and conduct the business of a grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of such 120 days, or unless:

- (1) Within 120 days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of the license or franchise and remedied all defaults thereunder; and
- (2) Such receiver or trustee, within such 120 days, shall have executed an agreement,

duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the license or franchise.

(e) *Abandonment.* The grantee may not abandon any portion of the system without first giving three months' written notice to the city. The grantee may not abandon any portion of the system without compensating the city for damages, if any, resulting from the abandonment.

(f) *Force majeure.* In the event a grantee's performance of any of the terms, conditions or obligations required by this article or a franchise or license is prevented by a cause or event not within a grantee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a grantee shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

(g) *Extended operation and continuity of services.* Upon either expiration or revocation of a franchise granted pursuant to this article, the city shall have discretion to permit or require a franchisee to continue to operate its utilities system or telecommunications system or open video system or provide utility services or telecommunications services or open video services for an extended period of time not to exceed six months from the date of such expiration or revocation. A franchisee shall continue to operate its utility or telecommunications system or open video system under the terms and conditions of this article and the franchise granted pursuant to this article.

(h) *Removal or abandonment of franchise property or nuisances.*

- (1) In the event that:
 - a. The use of any franchise property or license property is discontinued for a continuous period of 12 months; or

- b. Any facilities have been installed in the right-of-way without complying with the requirements of this article, a franchise or a license;

an owner shall be deemed to have abandoned such facilities. Such facilities may be deemed to be a nuisance and removable by the city at the grantee's sole cost if the grantee fails to remove such property, or any part thereof, itself.

- (2) The city, upon such terms as it may impose, may give a grantee permission to abandon, without removing, any utility or telecommunications system or open video system facilities or equipment laid, directly constructed, operated or maintained under a franchise or license. Unless such permission is granted or unless otherwise provided in this article, any person shall remove all abandoned aboveground facilities and equipment upon receipt of written notice from the city and shall restore any affected rights-of-way to their former state at the time such facilities and equipment were installed, so as not to impair their usefulness. In removing its plant, structures and equipment, such person shall refill, at its own expense, any excavation necessarily made by it and shall leave all right-of-way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The city shall have the right to inspect and approve the condition of the right-of-way cables, wires, attachments, poles, pipes, conduit, hoses and tubes prior to and after removal. The liability, indemnity and insurance provisions of this article and any security fund provided in a franchise or license shall continue in full force and effect during the period of removal and until full compliance by a grantee with the terms and conditions of this section.
- (3) Upon abandonment of any facilities in place, any person, if required by the city, shall submit to the city a written instru-

ment, satisfactory in form to the city, transferring to the city the ownership of the facilities abandoned, or convey such abandoned facilities to another grantee or person who qualifies to be a grantee. If the recipient of the facilities is not a grantee at the time of conveyance, such person shall have 30 days to comply with this article.

- (4) At the expiration of the franchise or license, or upon its revocation as provided for by this article, the city shall have the right to require the grantee or person who holds a controlling interest in utility facilities or services or telecommunications facilities or services in the right-of-way to remove, at its expense, all aboveground or buried portions of a utility system, telecommunications system or open video system from the right-of-way within a reasonable period of time, which shall not be less than 180 days.
- (5) Notwithstanding anything to the contrary set forth in this article, any person may abandon any underground facilities in place so long as it does not materially interfere with the use of the right-of-way or with the use thereof by any public utility, cable owner or other person upon approval of the public works director if he determines that abandonment will not result in interference with the use or maintenance of the right-of-way. Further, no facilities shall be deemed abandoned unless the grantee, owner or other person has taken no action to cure or otherwise maintain such facilities during the 90 days following written notice to the grantee, owner or excepted person at the last known address. If the grantee, owner or excepted person continues to maintain the property in a manner satisfactory to the public works director, even without utilization of the facilities, the facilities shall not be deemed to be abandoned.

(Code 2005, § 78-99; Ord. No. 2001-053, § 9, 5-29-2001)

Sec. 78-160. Repair of right-of-way and easements.

(a) *Required.* Any person who disturbs the right-of-way or easement shall restore such right-of-way or easement to as good a condition as existed prior to the disturbance within 30 days from the date of the completion of the work, repair or construction thereon pursuant to specifications of the public works director and on file with the city clerk unless written consent for a longer period is granted by the public works director.

(b) *Notification of work.*

- (1) A grantee shall publicize the disturbance of the right-of-way that involves work in the right-of-way in each affected neighborhood at least one week prior to commencement of that work by causing written notice of such construction work to be delivered to the city and by notifying those persons whose property the work will take place on and adjacent to the work site, or on which the work or construction is to take place, in any other manner reasonably calculated to provide adequate notice. However, this notice requirement shall not apply to emergency repair or maintenance work required to maintain service to customers where delay will result in an interruption of service if timely and immediate action is not taken. Apart from any initial build or substantial rebuild or upgrade, any underground construction will be publicized in accordance with applicable notice requirements.
- (2) In other cases, before entering onto any person's property, an owner or grantee shall contact the property owners or (in the case of residential property) the resident at least two days in advance, and describe the work to be performed.

(Code 2005, § 78-100; Ord. No. 2001-053, § 10, 5-29-2001)

Sec. 78-161. General provisions.

(a) *Conflicts.* In the event of a conflict between any provision of this article and a franchise or license entered pursuant to it, the provisions of this article shall control.

(b) *Separability.* If any provision of this article, or any franchise or license issued under this article, is held by any federal, state or local court of competent jurisdiction to be invalid as conflicting with any valid and applicable federal or state statutes, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, the board shall determine whether or not such section shall be considered a separate, distinct, and independent part of this article, the franchise or the license, and such holding shall determine the validity and enforceability of all other provisions thereof and any rights or privileges granted under this article. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law, the provision in question shall return to full force and effect and shall again be binding on the city and any owner or grantee, provided that the city shall give the owner or grantee 30 days, or a longer period of time as may be reasonably required for an owner or grantee to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

(c) *New developments.* It shall be the policy of the city to liberally amend this article, upon application of an owner or grantee, when necessary to enable the owner or grantee to take advantage of any developments in the field of telecommunications or utility service which will afford the owner or grantee an opportunity to more effectively, efficiently, or economically serve itself or the public and which will not unduly burden, damage or interfere with the rights-of-way and the use of same by others.

(d) *Notices.* All notices from an owner or grantee to the city required under this article or pursuant to a franchise or license granted pursuant to this article shall be directed to the city attorney. An owner or grantee shall provide in any application for a franchise or license the identity of the person or persons, including his address and phone number, to receive notices from the city under this article, a franchise or a license.

(e) *Regulation by city.* To the full extent permitted by applicable law either now or in the future, the city reserves the right to adopt or issue such rules, regulations, orders, or other directives governing utilities and telecommunications that it finds necessary or appropriate in the lawful exercise of its police powers. The city expressly reserves its rights to amend any specification or standard for restoration of the right-of-way it deems appropriate by action of the board, and to amend from time to time other provisions of this Code relating to the construction, maintenance, operation or repair of the system or facilities.

(f) *Intervention.* The city hereby reserves to itself the right to intervene in any suit, action or proceeding involving any provisions of this article.

(Code 2005, § 78-101; Ord. No. 2001-053, § 11, 5-29-2001)

Sec. 78-162. PEG requirements.

Any franchisee that operates an open video system will comply with all applicable FCC rules regarding support for public, educational and governmental access.

(Code 2005, § 78-102; Ord. No. 2001-053, § 12, 5-29-2001)

Sec. 78-163. Federal, state and city jurisdiction.

(a) *Consistency with federal and state laws.* This article shall be construed in a manner consistent with valid and all applicable federal and state statutes and the state constitution.

(b) *Applicability.* This article shall apply to all agreements, separately negotiated agreements, permits, franchises and licenses granted or renewed after the effective date of the ordinance from which this article is derived. Unless otherwise agreed to by the city, this article shall further apply to the extent permitted by valid and applicable federal or state laws, or as agreed to by the city and applicants or grantees, to all existing franchises and licenses granted prior to the effective date of the ordinance from which this article is derived.

(c) *Grantee to comply with all laws.* A grantee's rights are subject to the police powers of the city to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A grantee shall comply with all applicable general laws and ordinances enacted by the city pursuant to its police powers. In particular, all grantees shall comply with city zoning and other land use requirements pertaining to the placement and specifications of franchised or licensed property.

(d) *Grantee's obligation not relieved.* A grantee shall not be relieved of its obligation to comply with any of the provisions of this article or any permit, franchise or license granted pursuant to this article or other provision of this Code by reason of any failure of the city to enforce prompt compliance.

(e) *Franchises and licenses to be consistent with federal and state laws.* This article and any franchise or license granted pursuant to this article shall be construed and enforced in accordance with the valid substantive laws and constitutional provisions of the state and shall be litigated only with venue in the county.

(Code 2005, § 78-103; Ord. No. 2001-053, § 13, 5-29-2001)

Sec. 78-164. Dedication of revenues.

The fees paid to the city pursuant to section 78-129(a)(1), with the exception of the application fees, shall be placed in a separate fund for right-of-way related expenditures, including, but not limited to, maintaining, acquiring, repairing, repaving, management of the right-of-way, including, but not limited to, a GIS system development and maintenance and such additional personnel as are necessary to carry out the purposes of this article and to effectively manage the rights-of-way, including, but not limited to, inspectors, engineers, legal fees and costs not reimbursed by the grantee under section 78-129(b) or 78-133(b)(4) or its obligation to defend and indemnify the city.

(Code 2005, § 78-104; Ord. No. 2001-053, § 14, 5-29-2001)

Sec. 78-165. Authority of city if provisions declared invalid or preempted.

In addition to the provisions of section 78-136(b), should any provision of this article which

the city determines, in its sole opinion, to be material, be struck down by a court of competent jurisdiction, or be preempted by the valid exercise of authority by the federal or state government, and the remaining provisions would not provide for the fulfillment of any one of the goals contemplated by this article, the board, in its sole discretion, may declare this article, or any part thereof, to be null and void in its discretion and from that point forward all grantees and other persons shall be bound thereby and shall have no further rights to exercise any right or privilege granted under this article and, if such persons continue to occupy the right-of-way, they shall do so at the sufferance of the board.

(Code 2005, § 78-105; Ord. No. 2001-053, § 15.1, 5-29-2001)

Secs. 78-166—78-199. Reserved.

ARTICLE V. SMALL WIRELESS FACILITIES

Sec. 78-200. Use of right-of-way for small wireless facilities and utility poles.

(a) Subject to the provisions of this article and along, across, upon or under a right-of-way, a wireless provider may:

- (1) Collocate a small wireless facility, including collocation on a city pole;
- (2) Install, operate, modify, maintain or replace:
 - a. A utility pole associated with the wireless provider's collocation of small wireless facilities;
 - b. A stand-alone pole owned by a wireless provider for use with a small wireless facility; or
 - c. Equipment described in RSMo 67.5111(19) required for a wireless provider's operation or collocation of a small wireless facility.

(b) This article applies to the construction, modification, removal and operation of small wireless facilities in the right-of-way.

(c) This article does not apply to video service systems, wireline services, or wireless facilities that are not small wireless facilities.

(d) All references to small wireless facilities in this article shall refer only to small wireless facilities in the right-of-way and not small wireless facilities located anywhere outside of the right-of-way.

(e) No person shall install, construct, modify, or otherwise place any small wireless facility within the right-of-way except pursuant to the provisions of this article.

(f) Microwave, macro towers, and other wireless backhaul facilities are not permitted within the right-of-way.

(g) The definitions used in this article only apply to this article.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-201. Definitions.

Except as modified in this section, the terms used in this article shall be defined as provided in the Uniform Small Wireless Facility Deployment Act, RSMo 67.5110—67.5125, or its successor provisions.

City pole. An authority pole owned by the city.

Stand-alone pole. A pole installed by a wireless provider in the public right-of-way for use in connection with a small wireless facility.
(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-202. Small wireless facilities; restrictions.

(a) A small wireless facility, including associated equipment and structures installed under this article may not materially:

- (1) Interfere with the safe operation of traffic control equipment or city communications equipment;
- (2) Interfere with the sight lines of clear zones for transportation, pedestrians or nonmotorized vehicles;
- (3) Interfere with compliance under the Americans with Disabilities Act, 42

- U.S.C. §§ 12101—12213, or similar federal or state standards regarding pedestrian access or movement;
- (4) Obstruct or hinder the usual travel or public safety on the right-of-way;
 - (5) Obstruct the legal use of the right-of-way by the city, utility, or any other third party.
- (b) Construction and maintenance of any pole, equipment or small wireless facility by a wireless provider shall comply with all applicable legal obligations for the protection of underground and overhead utility facilities.
- (c) A wireless provider shall indemnify, save harmless, and defend the city, its directors and employees against any damage or personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors.
- (d) A wireless provider is solely responsible for establishing electrical power service for its small wireless facilities and for the payment of all electrical utility charges associated with the small wireless facility.
- (e) All small wireless facilities and wireless provider-owned structures shall be maintained by the wireless provider in a clean and good condition, free of graffiti, and rusting, excessive dirt, and peeling paint. The city shall have the authority to conduct inspections of the small wireless facilities and structures at any time to determine whether such facilities and structures comply with the requirements of this article.
- (f) If small wireless facilities and wireless provider-owned structures are located or placed within any city right-of-way or dedicated easement and any future construction for city projects or repairs of existing facilities conflict in any way and require relocation of the small wireless facilities and wireless provider-owned structures, any relocation expenses will be borne by the wireless provider.
- (Ord. No. 2019-0017, § 2, 2-26-2019)
- Sec. 78-203. Permits, when required.**
- (a) An applicant shall obtain a permit prior to:
- (1) Collocating a small wireless facility in a right-of-way;
 - (2) Installing a new, modified or replacement utility pole, city pole, decorative pole or stand-alone pole associated with a small wireless facility in a right-of-way; or
 - (3) Permanently removing a small wireless facility.
- (b) Exceptions to permitting. Unless the work requires the closing of sidewalks or vehicular lanes in the right-of-way, an application for a permit is not required for:
- (1) Routine maintenance of a small wireless facility or support structures for a small wireless facility;
 - (2) The replacement of one small wireless facility with another small wireless facility of substantially similar or smaller size;
 - (3) Non-substantial modifications.
- (c) A wireless provider shall give notice to the city of an activity described in subsection (b) at least five business days prior to conducting the activity.
- (Ord. No. 2019-0017, § 2, 2-26-2019)
- Sec. 78-204. Design standards applicable to all small wireless facilities.**
- (a) *Integrated design consideration:* Small wireless facilities, including equipment associated with the small wireless facility, shall be integrated into the stand-alone pole, utility pole, decorative pole or city pole and generally shall be installed in a manner minimizing the visual impact. Whether the small wireless facility is collocated or is placed on its own pole:
- (1) Small wireless facilities should not be readily noticed;
 - (2) All equipment, including electric meters, should be located on or within the pole unless prohibited by the owner of the pole, in which case an alternative power meter box must be approved by the engineering department;
 - (3) A small wireless facility and associated equipment located on the exterior of the

- pole shall be enclosed in a shroud or enclosure painted to match the existing pole color;
- (4) All small wireless facilities shall be constructed out of or finished with non-reflective materials (visible exterior surfaces only);
- (5) For metal poles:
- Cable runs should be inside of the pole to the maximum extent practicable;
 - Equipment associated with the small wireless facility should, where practicable, be enclosed within the support structure or at the base of the wireless support structure in a space not more than 24 inches in diameter and not more than five feet eight inches in height; and
- (6) If equipment cannot be installed inside of the pole, pole attachments within 15 feet of ground level shall be positioned on the side of the pole facing away from approaching traffic in the travel lane closest to the pole, provided that if the equipment would extend over a sidewalk or road surface, the equipment shall be positioned in a way to avoid such encroachment;
- (7) Wireless facility equipment on the outside of a utility pole shall be placed at least eight feet above the right-of-way, unless otherwise permitted by the city;
- (8) Shall not be lighted or marked unless required by the Federal Communications Commission (FCC) the Federal Aviation Administration (FAA), or other applicable governmental authority; and
- (9) Signs located at the small wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and other information as required by the applicable governmental authority. Commercial advertising is strictly prohibited.

(b) *Antennae:*

- Each individual antenna shall be located entirely within a shroud enclosure of not more than three cubic feet in volume. All antennas associated with the small wireless facility shall not exceed a combined space of six cubic feet.
- The diameter of the antenna or antenna enclosure should generally not exceed the diameter of the top of the wireless support structure pole, and to the maximum extent practical, should appear as a seamless vertical extension of the pole.
- In no case shall the maximum diameter of the shroud be wider than 1½ times the diameter of the top of the pole.
- Where maximum shroud diameter exceeds diameter of the top of the pole, the shroud shall be tapered to meet the top of the pole.
- The diameter of the antenna or antenna enclosure should generally not exceed the diameter of the top of the wireless support structure pole, and to the maximum extent practical, should appear as a seamless vertical extension of the pole.
- Antenna shall be completely housed within a cylindrical shroud that is capable of accepting paint to match the wireless support structure.

(c) *Height limitations:*

- The height of a structure used for collocation of a small wireless facility, including the wireless facility, measured at the base of the structure shall not exceed the lesser of:
 - The minimum height needed for the operation of the wireless facility; or
 - For a new, replacement or modified utility pole or city pole the greater of ten feet in height above the tallest existing utility pole in place as of January 1, 2019 located within 500 feet of the new utility pole in

the same right-of-way, or 50 feet above ground level together with the minimum antenna height necessary for one antenna contained within any approved concealment feature.

- (2) A utility pole existing as of August 28, 2018, that is used for the collocation of a small wireless facility may, on only one occasion, be increased by up to ten feet to allow for the attachment of the small cell wireless antenna together with any approved concealment feature.

(d) If a ground-mounted or buried equipment cabinet is proposed, the cabinet or vault:

- (1) May be placed above ground in a landscaped park strip or, if there is no landscaped park strip it shall be placed underground;
- (2) Shall meet the same separation standards as required for a new utility pole from trees and drive approaches; and
- (3) For an above ground cabinet:
 - a. Shall be secured to a concrete foundation or slab with a breakaway design in the event of collisions; and
 - b. Shall not exceed three feet in height, unless special conditions exist that would result in the cabinets encroaching into the sidewalk or to within two feet of the curb.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-205. Design standards applicable to collocated small wireless facilities.

Collocated small wireless facilities, shall, in addition to the requirements of section 78-204 of this article, meet the following design standards:

- (1) To the maximum extent practicable, all small cell facilities, associated equipment and cabling shall be completely concealed from view within an enclosure.

- (2) Where equipment cannot reasonably be incorporated into the base of the pole in accordance with section 78-204, it may be installed within:
 - a. An equipment enclosure mounted to the pole; or
 - b. A ground-mounted cabinet physically independent from the pole.
- (3) Equipment enclosure mounted to a pole:
 - a. Shall not protrude more than 18 inches beyond the face of the pole to the outermost portion of the enclosure.
 - b. Should be installed as flush to the pole as practical. In no case shall an enclosure be installed more than four inches from the wireless support structure pole.
 - c. Where multiple enclosures are proposed on a wireless support structure pole, the enclosures shall be grouped as closely together as possible on the same side of the pole.
 - d. Small wireless facility equipment enclosures should be the smallest size practicable to house the necessary facilities and equipment.
 - e. Small wireless facility equipment enclosures shall be cylindrical or rectangular in shape and should generally be no wider than the maximum outside diameter of the pole to which it is attached, to the maximum extent possible.
 - f. Attachment. The shroud enclosure shall be securely strapped to the wireless support structure pole using stainless steel banding straps. Through-bolting or use of lag bolts on publicly owned wireless support structures is prohibited.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-206. Design standards applicable to small wireless facilities on new stand-alone utility poles.

If an applicant proposes to install a new stand-alone utility pole to support a small wire-

less facility, the pole and facilities shall, in addition to the requirements of sections 78-204 and 78-205 of this article, meet the following design standards:

- (1) Design shall be cylindrical in nature and reasonably conform to the appropriate aesthetic for the surrounding area as determined by the public works director.
- (2) Together with the small wireless facility components shall be sized to be visually pleasing:
 - a. For a pole to be considered visually pleasing, the transition between the equipment cabinet and upper pole should be considered;
 - b. The equipment associated with the small wireless facility shall be, where practicable, enclosed within the wireless support structure or at the base of the wireless support structure in a space described in section 78-204, provided that a separate equipment cabinet or vault not exceeding 28 cubic feet in size may be used if the equipment cannot reasonably be contained in the space allowed;
 - c. A decorative transition shall be installed over the equipment cabinet upper bolts, or decorative based cover shall be installed to match the equipment cabinet size and shall taper between different pole sizes;
 - d. The upper pole shall be scaled to 0.5 to 0.75 the size of the equipment cabinet, with a ten-inch minimum outer pole diameter at the widest portion of the pole;
 - e. All hardware connections shall be hidden from view; and
 - f. Each pole component shall be architecturally compatible with the surrounding area to create a cohesive aesthetic.
- (3) Shall not be located within 100 feet of the apron of a fire station or other emergency service facility.
- (4) Shall be placed in alignment with existing trees, utility poles and street lights.
- (5) Shall be located such that in no way impedes, obstructs, or hinders the usual pedestrian or vehicular travel, affect public safety, obstruct the legal access to or use of the right-of-way, violate applicable law, violate or conflict with city right-of-way design standards, specifications, or requirements, violated the Federal Americans with Disabilities Act of 1990, or in any way create a risk to public health, safety or welfare.
- (6) Shall be located at intersecting property lines as much as possible.
- (7) Shall be located outside of the dripline of trees.
- (8) Shall be located at least five feet away from the widest part of an alley or drive approach, including any flare associated with the approach.
- (9) Shall not be installed between the perpendicular extension of the primary-street facing wall plane of any single- or two-family residence and the street.
- (10) When located adjacent to a commercial establishment, such as a shop or restaurant, care should be taken to locate the pole such that it does not negatively impact the business:
 - a. Shall not be located in-front of store front windows, primary walkways, primary entrances or exits, or in such a way it would impede a delivery to the building.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-207. Design standards applicable to decorative poles.

Small wireless facilities located on decorative poles shall, in addition to any other requirements of this article, meet the following design standards:

- (1) If necessary to collocate a small wireless facility, a wireless provider may replace a decorative pole, if the replacement pole

reasonably conforms to the design aesthetic of the displaced decorative pole as approved by the public works director. A replacement pole does not reasonably conform to the design aesthetic if it extends the current pole height by more than 25 percent.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-208. Undergrounding.

(a) A wireless provider will place newly constructed lines and cables underground whenever practicable.

(b) A wireless provider shall locate wires, cables, or other facilities that are not required to be above ground underground.

(c) Any request by a wireless provider for location of any overhead or aerial facilities (other than the antennas or other facilities required to remain above ground in order to be functional) shall be considered by the city in accordance with all applicable rules and regulations.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-209. Application process.

(a) Applications for the installation or collocation of a small wireless facility shall be filed with the public works director on a form or forms to be furnished by the public works director.

(b) All applications for permits shall contain the following:

- (1) The application form shall be signed by the applicant or its authorized representative;
- (2) The name, address, telephone, facsimile number, and email address of the applicant. Where an applicant is not the owner of the utility pole to be installed, maintained or repaired in the public way, the application also shall include the name, address, telephone, facsimile number and email address of the owner;
- (3) A description of the location, purpose, method of the proposed work, and surface and subsurface area to be affected;

- (4) A plan showing the dimensions of any excavation and the facilities to be installed, maintained, or repaired in connection with the work, and such other details as the public works director may require;
- (5) Construction drawings which demonstrate the application meets the minimum requirements of this article, including:
 - a. A scaled site plan, rendering or photo simulation, scaled elevation view and other supporting drawings and calculations, showing the location and dimension of all improvements; and
 - b. Sufficient information to determine compliance with the standards and requirements of this article, specifically including information concerning structure height and location within the right-of-way, compliance with the city's intersection and driveway sight distance standards, and compliance with the ADA.
- (6) The appropriate application fee as set forth in section 78-211 and appendix A;
- (7) An affidavit or attestation that the applicant or, if the applicant does not provide wireless services, a wireless service provider will provide wireless service using the small wireless facility and that the installation or collocation of the small wireless facility shall be completed within one year after the day on which the city issues a permit except in the case that:
 - a. The city and the applicant agree to extend the one-year period; or
 - b. Lack of commercial power or communications transport infrastructure to the site delays completion.
- (8) If the applicant does not provide wireless service to an end user associated with the small wireless facility or facilities to be installed, maintained, or repaired, the applicant must demonstrate in a form and manner specified by the public works

- director that the applicant is authorized to act on behalf of a wireless service provider;
- (9) An affidavit or attestation that each proposed small wireless facility, pole, and associated equipment is eligible for an exemption from environmental or historical assessment under 47 CFR 1.1312(e) or, if not exempt, evidence of compliance with such required assessment;
- (10) An affidavit or attestation from a licensed engineer that the proposed wireless facility will be in compliance with the radio frequency emissions limits established by the FCC;
- (11) The proposed start date of work;
- (12) The proposed duration of the work, which shall include the duration of the restoration of the right-of-way physically disturbed by the work;
- (13) Written certification that all material to be used in the work and restoration of the right-of-way, will be on hand and ready for use so as not to delay the work and the prompt restoration of the public way;
- (14) For an application that proposes collocation of the small wireless facility:
- An industry-standard pole load analysis indicating that the structure on which the wireless facilities will be mounted will safely support the load;
 - Evidence that the applicant has permission to collocate the proposed small wireless facility on the pole; and
 - If a small wireless facility cannot be safely installed on the respective structure, the applicant shall either replace the structure with a compliant structure of the same type or propose a new location.
- (15) Written certification that the applicant and the wireless service provider are in compliance with all terms and conditions of this article, the orders, and all applicable rules and regulations of the public works director, and that the applicant and owner are not subject to any outstanding assessments, fees or penalties that have been finally determined by the city;
- (16) Evidence of insurance as required by this Code;
- (17) Any other information that may reasonably be required by the public works director.
- (c) After an application has been approved, the applicant shall obtain any required permits, including right-of-way, excavation or electrical permits, prior to commencing installation or construction of the small wireless facility.
(Ord. No. 2019-0017, § 2, 2-26-2019)
- Sec. 78-210. Procedure for administrative review of applications.**
- (a) The city shall review a complete application, including a consolidated application of up to 20 small wireless facilities so long as such wireless facilities 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, and approve or deny the application within the time frames and subject to the standards contained in RSMo 67.5112.
- (b) If construction of an approved small wireless facility is not complete within one year after an application has been approved, the approval shall lapse and a new application will be required for the designated location.
(Ord. No. 2019-0017, § 2, 2-26-2019)
- Sec. 78-211. Fee schedule.**
- Permit and other fees imposed in this article with each application shall be in the amount established from time to time by the board as provided in the city fee schedule in appendix A. In addition to the fees listed in appendix A, a wireless provider or applicant shall pay all other applicable fees established by city, specifically

including but not limited to, electrical permit fees, and right-of-way permit fees prior to installing an approved small wireless facility in the right-of-way.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-212. Damage and repair.

(a) If a wireless provider's activity disrupts or causes damage to a right-of-way, the wireless provider shall restore or repair the right-of-way to substantially the same condition as before the disruption or damage in accordance with the city's engineering standards.

(b) If a wireless provider fails to make a repair required by the city under subsection (a) above within a reasonable time (what is reasonable time defined as) after written notice, the city may:

- (1) Make the required repair; and
- (2) Charge the wireless provider the reasonable, documented, actual cost for the repair.

(c) If the damage described in subsection (a) above, causes an urgent safety hazard, the city may:

- (1) Immediately make the necessary repair; and
- (2) Charge the wireless provider the reasonable, documented, actual cost for the repair.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-213. Removal of small wireless facilities.

(a) *Abandoned system:* In the event that: 1) the use of any portion of a small wireless facility is discontinued for a continuous period of 12 months, and 30 days after no response to written notice from the city to the last known address of the wireless provider; 2) the term of the applicable master license agreement has expired; or 3) any small wireless facility has been installed in the rights-of-way without complying with the requirements of this article or a master license agreement; a wireless provider shall be deemed to have abandoned such small wireless facility.

(b) *Removal of abandoned facility:* The city, upon such terms as it may impose, may give a wireless provider written permission to abandon, without removing, any small wireless facility, or portion thereof, directly constructed, operated or maintained under a master license agreement. Unless such permission is granted or unless otherwise provided in this article, a wireless provider shall remove within a reasonable time the abandoned small wireless facility and shall restore, using prudent construction standards, any affected rights-of-way to their former state at the time such system was installed and in accordance with the them adopted engineering standards, so as not to impair their usefulness. In removing its facilities and equipment, a wireless provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights-of-way in as good condition as that prevailing prior to such removal without materially interfering with any authority pole or other utility wires, poles or attachments. The city shall have the right to inspect and approve the condition of the rights-of-way, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this article and any security fund provided in a master license agreement shall continue in full force and effect during the period of removal and until full compliance by a wireless provider with the terms and conditions of this section.

(c) *Transfer of abandoned facility to city:* Upon abandonment of any small wireless facility or wireless support structure in place, a wireless provider, if required by the city, shall submit to the city a written instrument, satisfactory in form to the city, transferring to the city the ownership of such poles or equipment allowed to remain within the right-of-way.

(d) *Removal of above ground system:* At the expiration of the term for which a master license agreement is granted, or upon its revocation or earlier expiration, in any such case without renewal, extension or transfer, the city shall have the right to require a provider to remove, at its expense, all above ground portions of small wireless facilities within a reasonable period of time, which shall not be less than 180 days.

(e) *Leaving underground system:* Upon written approval by city, a wireless provider may abandon underground portions of a small wireless facility in place so long as it does not materially interfere with the use of the rights-of-way or with the use thereof by any public utility, cable operator or other person.

(f) If a wireless provider defaults under any provision of the article and such default is not cured within 60 days following notice by the city to wireless provided of its default, the city shall maintain all its rights and remedies, at law and in equity, including the ability to charge fines, recover fees and costs. In the alternative, the city may remove the small wireless facilities and associated equipment and charge the reasonable, documented, actual cost to the wireless provider.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-214. Conflicts.

In the event of a conflict between any provision of this article and a master license agreement entered into by agreement, the provisions of this article shall control.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-215. Other applicable ordinances.

The use of the right-of-way under this article is subject to the police powers of the city to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A person using the right-of-way pursuant to this article or a master license agreement shall comply with all applicable general laws and ordinances enlaced by the city pursuant to its police powers.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-216. Orders, rules and regulations.

In addition to the requirements set forth in this article, the city may adopt such orders, rules and regulations which are reasonably necessary to accomplish the purposes of this article and are consistent herewith.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-217. City failure to enforce.

A person shall not be relieved of its obligation to comply with any of the provisions of this article or any franchise granted pursuant to this article by reason of any failure of the city to enforce prompt compliance.

(Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-218. Construed according to Missouri law.

This article and any master license agreement shall be construed and enforced in accordance with the substantive laws of the state including, but not limited to, the Uniform Small Wireless Facility Deployment Act, RSMo 67.5110—67.5125. (Ord. No. 2019-0017, § 2, 2-26-2019)

Sec. 78-219. Sunset clause.

This article goes into effect upon passage and with a sunset date of January 1, 2025, except that for small wireless facilities already permitted or collocated on city poles prior to such date the fees set forth in section 78-211 and appendix A will remain in effect.

(Ord. No. 2019-0017, § 2, 2-26-2019; Ord. No. 2020-0095, § 2, 8-25-2020)

Secs. 78-220—78-250. Reserved.

Chapters 79—81

RESERVED

Chapter 82

TAXATION*

Article I. In General

- Sec. 82-1. Levy of certain taxes authorized.
- Sec. 82-2. Assessment and collection of property taxes.
- Sec. 82-3. Annual rate of levy of property taxes.
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- Sec. 82-25. Definitions.
- Sec. 82-26. Applicability.
- Sec. 82-27. Tax percentage.
- Sec. 82-28. Tax to be paid monthly.
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- Sec. 82-30. Tax in addition to other taxes.
- Secs. 82-31—82-48. Reserved.

Article III. Residential Utility Service Tax

- Sec. 82-49. Levy of tax.
- Secs. 82-50—82-71. Reserved.

Article IV. General Sales Tax

- Sec. 82-72. Levy of tax; tax percentage.
- Sec. 82-73. Conformance with state regulations.
- Sec. 82-74. Disposition of revenue.
- Secs. 82-75—82-82. Reserved.

Article V. Transportation Sales Tax

- Sec. 82-83. Levy of tax; tax percentage; collection.
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Article VI. Tourism Tax

- Sec. 82-92. Definitions.
- Sec. 82-93. Levy of tax.
- Sec. 82-94. Tourism tax trust fund.
- Sec. 82-95. Contracting for tourism promotion.
- Sec. 82-96. Licenses; payment of tax.
- Sec. 82-97. Tourism tax returns required.
- Sec. 82-98. Examination of books and records.
- Sec. 82-99. Tourism tax deposit.
- Sec. 82-100. Collection; violations.
- Sec. 82-101. Confidential records.

***State law references**—Taxation and revenue generally, RSMo 135.010 et seq.; municipal taxing authority generally, RSMo 71.610 et seq.; taxation in special charter cities, RSMo 94.340 et seq.; taxation in third class cities, RSMo 94.010 et seq.; authority to impose business licenses taxes as granted by municipal charters, RSMo 71.610; tax credit records, RSMo 610.225; assessment and levy of property taxes, RSMo 137.010 et seq.; payment and collection of current taxes, RSMo 139.031 et seq.; collection of delinquent taxes generally, RSMo 140.010 et seq.; sales and use taxes, RSMo 144.010 et seq.; merchant, manufacturer, itinerant vendor, and peddler licenses and taxes, RSMo 150.010 et seq.; special assessments for public works, RSMo 88.010 et seq.

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- Sec. 82-102. Administrative changes.
- Sec. 82-103. Delinquency fees and penalties for nonpayment.
- Sec. 82-104. Adoption of state sales tax rules.
- Sec. 82-105. Tourism tax assessment.
- Sec. 82-106. Sale of business, withholding of tourism taxes owed at closing by buyer.
- Secs. 82-107—82-125. Reserved.

Article VII. Cigarette Tax

- Sec. 82-126. License required; fee.
- Sec. 82-127. Tax imposed.
- Sec. 82-128. Records of wholesale deliveries required; filing of copies of invoices; inspection of records; stock and equipment.
- Sec. 82-129. Records of retailers.
- Sec. 82-130. Payment and report.
- Sec. 82-131. Disposition of revenue.
- Sec. 82-132. Right of city to check records of sales by wholesalers.
- Sec. 82-133. Penalty for failure to secure license.
- Sec. 82-134. Notice of suspension of license.
- Sec. 82-135. Selling with suspended license.
- Sec. 82-136. Compensation to retailer for making reports and paying tax.
- Sec. 82-137. Transfer of license.

ARTICLE I. IN GENERAL

Sec. 82-1. Levy of certain taxes authorized.

For the support of the city government, the payment of the city indebtedness and interest thereon, and the improvement of the city, and for general purposes, the mayor and board shall by ordinance levy an annual tax upon the following subjects as sources of city revenue and provide for the collection thereof: on all mixed personal or real property within the limits of the city, taxable according to the laws of the state. The city shall have as other sources of revenue all license taxes authorized by law to be levied which the city imposes as a license tax by ordinance.

(Code 1988, § 135.010; Code 1996, § 135.010; Code 2005, § 82-1; Ord. No. 38, § 1, 9-22-1913)

Sec. 82-2. Assessment and collection of property taxes.

The assessment on real and personal property within the city limits, as made by the county assessor after the assessment has been passed upon by the board of equalization, shall be taken as a basis from which the board shall make the levy for city purposes. Upon January 1 of each year, all unpaid taxes shall become delinquent, and the taxes on real property are hereby made a lien thereon. The enforcement of all taxes authorized by RSMo 94.190—94.330 shall be made in the same manner as is provided by law for the collection and enforcement of the payment of state and county taxes, including the seizure and sale of goods and chattels after the taxes become delinquent. Where applicable in RSMo ch. 140, the term "county" shall be construed as the term "city," the term "county clerk" shall be construed as the term "city clerk," and the term "county collector" shall be construed as the term "city collector" or other proper officer collecting taxes in the city.

(Code 1988, § 135.020; Code 1996, § 135.020; Code 2005, § 82-2; Ord. No. 38, § 2, 9-22-1913)

Sec. 82-3. Annual rate of levy of property taxes.

The board shall, within a reasonable time after the assessor's books of each year are returned,

ascertain the amount of money to be raised thereon for general and other purposes and fix the annual rate of levy therefor by ordinance within the provisions of the laws of the state.

(Code 1988, § 135.030; Code 1996, § 135.030; Code 2005, § 82-3; Ord. No. 38, § 3, 9-22-1913)

Secs. 82-4—82-24. Reserved.

ARTICLE II. ELECTRIC COMPANIES LICENSE AND OCCUPATION TAX

Sec. 82-25. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Electric cooperative means every rural electric cooperative operating within the meaning and as defined by state law.

Gross receipts.

(1) Except as otherwise provided in subsection (2) of this definition, the term "gross receipts" means all monies collected and received by the licensee from the manufacture, distribution, and sale of electric power and energy to all of the licensee's customers within the present and future boundaries of the city by every light and power company served under rate schedules as now or hereafter approved by the state public service commission for industrial, commercial, and residential service and served by every electric cooperative under its current and future rates for industrial, commercial and residential service.

(2) The term "gross receipts" means all monies collected and received by the licensee from the sale or lease of goods and products to all of the licensee's customers within the present and future boundaries of the city before any deductions are made therefrom by the licensee for any expenses, costs, or charges of any kind.

- (3) The term "gross receipts" does not include:
- a. Late charges and interest collected and received by the licensee.
 - b. All monies collected and received by the licensee from the following customers of the licensee:
 1. Churches.
 2. Church schools.
 3. Schools.

Light and power company means every person that is an "electrical corporation" owning and operating an electric plant as a public utility within the meaning of and as defined by state law. (Code 1988, §§ 655.030—655.050; Code 1996, §§ 640.030—640.050; Code 2005, § 82-31; Ord. No. 686, §§ 3—5, 8-26-1985)

Sec. 82-26. Applicability.

Every light and power company, electric cooperative, their successors, and assigns, generating, manufacturing, selling, distributing, transmitting, supplying, and furnishing electricity, electric power, electric energy, and electric service ("licensee") in the city shall pay a license and occupation tax. (Code 1988, § 655.010; Code 1996, § 640.010; Code 2005, § 82-32; Ord. No. 686, § 1, 8-26-1985)

Sec. 82-27. Tax percentage.

The license and occupation tax provided for in this article shall be a sum equal to two percent of the gross receipts derived from the transaction of the licensee's business within the city. (Code 1988, § 655.020; Code 1996, § 640.020; Code 2005, § 82-33; Ord. No. 686, § 2, 8-26-1985)

Sec. 82-28. Tax to be paid monthly.

The licensee shall pay the tax provided for in this article monthly, such tax to be computed upon the basis of gross receipts collected and received by the licensee which are subject to the tax from the first day through the last day of each

month during which the licensee is doing business and engaged in such occupation, beginning on November 6, 1985.

(Code 1988, § 655.060; Code 1996, § 640.060; Code 2005, § 82-34; Ord. No. 686, § 6, 8-26-1985)

Sec. 82-29. Date for payment of tax; form and content of reports; date reports are due.

The exact date after the end of each month on which the licensee shall pay the tax provided for in this article, the form and contents of reports filed by the licensee with the city showing the gross receipts which are subject to the tax, and the date on which the reports are due shall be as mutually agreed upon by the city and the licensee.

(Code 1988, § 655.070; Code 1996, § 640.070; Code 2005, § 82-35; Ord. No. 686, § 7, 8-26-1985)

Sec. 82-30. Tax in addition to other taxes.

The license and occupation tax provided for in this article shall be in addition to all other taxes, payments or fees now or hereafter required by law or ordinance.

(Code 1988, § 655.080; Code 1996, § 640.080; Code 2005, § 82-36; Ord. No. 686, § 8, 8-26-1985)

Secs. 82-31—82-48. Reserved.

ARTICLE III. RESIDENTIAL UTILITY SERVICE TAX

Sec. 82-49. Levy of tax.

A municipal tax is levied on all sales of metered water service within the corporate limits of the city at the rate of one percent for residential customers and uses and 1½ percent for commercial customers and uses.

(Code 1988, § 135.040; Code 1996, § 135.040(A); Code 2005, § 82-61; Ord. No. 554, §§ 1—3, 11-26-1979)

Secs. 82-50—82-71. Reserved.

ARTICLE IV. GENERAL SALES TAX

Sec. 82-72. Levy of tax; tax percentage.

A general sales tax at the rate of one percent of the receipts from the sale at retail of all tangible personal property and taxable services at retail within the city is hereby levied and imposed upon all persons selling or furnishing tangible personal property or rendering services for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail in the city.

(Code 1996, § 135.070(A); Code 2005, § 82-91; Ord. No. 420, § 1, 5-8-1972)

Sec. 82-73. Conformance with state regulations.

The tax provided for in this article is imposed to the extent and in the manner provided in RSMo 144.010—144.525, and the rules and regulations of the director of revenue of the state issued pursuant thereto.

(Code 1996, § 135.070(B); Code 2005, § 82-92; Ord. No. 420, § 1, 5-8-1972)

Sec. 82-74. Disposition of revenue.

All revenues collected and received by the city from the tax imposed by this article shall be deposited in the city treasury to the credit of the general revenue fund.

(Code 1996, § 135.070(C); Code 2005, § 82-93; Ord. No. 420, § 1, 5-8-1972)

Secs. 82-75—82-82. Reserved.

ARTICLE V. TRANSPORTATION SALES TAX*

Sec. 82-83. Levy of tax; tax percentage; collection.

Pursuant to the authority granted by and subject to the provisions of RSMo 94.700—94.755, a tax for transportation purposes is hereby imposed

*Editor's note—Ordinance No. 2004-0064, which was passed by the voters at the August 3, 2004, election, extended the transportation tax another 20 years, commencing October 1, 2005, through October 1, 2025.

on all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in RSMo ch. 144 and the rules and regulations of the director of revenue issued pursuant thereto. The rate of tax shall be 0.5 percent on the receipts from sale at retail of all tangible personal property or taxable services at retail within the city limits if such property and taxable services are subject to taxation by the state under the provisions of RSMo ch. 144. The tax shall be collected pursuant to the provisions of RSMo 94.700—94.755.

(Code 1988, § 135.060; Code 1996, § 135.060; Code 2005, § 82-121; Ord. No. 91-23, §§ 1, 2, 6-10-1991; Ord. No. 95-91, § 1, 8-28-1995; Ord. No. 2004-064, § 1, 5-10-2004)

Secs. 82-84—82-91. Reserved.

ARTICLE VI. TOURISM TAX†

Sec. 82-92. 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. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Admission includes door charges, cover charges for seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amounts paid for admittance, exclusive of any admission tax imposed by any other unit of government, either federal or state.

Amusement means a pleasurable diversion or entertainment. A "place of amusement" is any location in which amusement activities comprise more than a de minimis portion of the business activities of the location and includes, but is not limited to, clubs.

Auditor means the person or organization that reviews the taxpayers' books and records on behalf of the city for the purposes of determining the

†Editor's note—Ordinance No. 97-038 was approved by the voters at the November 4, 1997, election to set the tourism tax at four percent.

accuracy of any tourism tax return filed by the taxpayer or determining if a tourism tax return needs to be filed by the taxpayer.

Business includes any activity engaged in by any person or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of this article. The isolated or occasional sale of any tangible personal property, service, substance or thing by a person not engaged in such business does not constitute engaging in business within the meaning of this article unless the total amount of gross receipts from such activity exceeds \$1,000.00 in any calendar year. No tourism tax is charged on any sale of \$1.00 or less. The provisions of this definition shall not be construed to exempt any sale of property because such sale is exempt from sales tax or use tax from the tourism tax levied pursuant to this article.

Campground means real property, other than state-owned property, which contains parcels for rent to transient guests for pay or compensation, which may include temporary utility hookups for use by transient guests, and where such transient guests generally use tents, recreational vehicles or some other form of temporary shelter while on the rented premises.

Caterers means sellers who purchase raw materials from various suppliers from which finished food and drink are prepared and sold at retail.

Club means an organization or group of people associated for a common purpose or for mutual advantage, relating to a place of amusement or recreation.

Common eating and drink area means an area within a building or group of buildings designated for eating of food and drink sold at retail by establishments which do not provide areas within their premises for the consumption of food and drink, where the cost of maintaining such area is shared by the payment of common area maintenance charges, as provided in the respective leases permitting the use of such areas, or otherwise.

Common elements means all portions of the property except the units.

Declaration means the instrument and amendments thereto by which the property is submitted to the provisions of RSMo 448.005—448.210.

Drink means articles sold for use as a drink for man, including articles used for components of any such article. The term "drink" includes both soft drinks and intoxicating liquor.

Due date means the date tourism tax returns and related payments are to be received by the city. The due date for filing tourism tax returns and paying tourism taxes is the 20th day of the month. If the 20th day of the month falls on a weekend or on a city holiday, the due date will become the first workday after the 20th day of the month.

Food means articles sold for use as food for man, and articles used for components of any such prepared food as defined in RSMo 196.010 and 196.190.

Gross receipts means the total amount of the sale price of sales at retail, including any services other than charges incident to extension of credit that are a part of such sales price, made by a business referred to in this article, capable of being valued in money, whether received in money or otherwise; except that gross receipts shall not include the sales for which the item is returned by the customer when the full sales price thereof is refunded either in cash or by credit. Also, any amount received by any reason of extensions of credit shall be specifically exempted. It shall also include the lease or rental consideration where the right of continuous possession or use of any property is granted for a definite interval of time.

Hotel, motel, condominium unit, timeshare interest in condominium and tourist court mean any structure or building, under one management, which contains rooms furnished for the accommodation or lodging of guests with or without meals being provided, including bed and breakfast facilities, and kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests, and the use of the term "hotel" or "motel" alone shall also be deemed to include all such structures, buildings and facilities.

Intoxicating liquor means and includes alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of one half of one percent by volume.

Not-for-profit organization means an organization, including a not-for-profit corporation, no part of the income or property of which is distributable to its members, directors or officers; provided, however, that payment of reasonable compensation for service rendered and the making of distributions not representing pecuniary profits or gains upon dissolution or final liquidation are not deemed a distribution of income.

Parcel means the tracts of land, including additional tracts added by subsequent amendment described in the declaration or amendments thereto.

Permanent resident means a person who contracts in advance for a room in a hotel, motel, condominium unit, campground or tourist court for a period of 30 consecutive days or more and who actually remains a guest of the hotel, motel, condominium unit, campground or tourist court for more than 30 consecutive days. The rental or lease receipts from letting such room are not subject to the tourism tax. The term "permanent resident" is not considered synonymous with a permanent room. Persons who rent or lease accommodations on a permanent basis to businesses for their employees' use are subject to the tourism tax on the receipts from all the accommodations.

Private tourist attraction means any commercial entity which appeals to the recreational desires and tastes of the traveling public through the presentation of services or devices designed to entertain or educate visitors, including, but not limited to:

- (1) Amusement parks, carnivals, circuses, fairs, and water parks.
- (2) Aerial tramways.
- (3) Commercial animal, reptile and zoological exhibits.

- (4) Commercial beaches and hot springs.
- (5) Go-carts/miniature golf establishments.
- (6) Horse shows and rodeos.
- (7) Rides on airplanes, helicopters, balloons, gliders, parachutes and bungee jumps.
- (8) Automobile, bicycle, dog, horse, and other racing events.
- (9) Music shows and pageants, movie theaters, and live theaters.
- (10) Regularly scheduled and special professional sporting events, including, but not limited to, football, baseball, basketball, hockey, tennis, golf, bowling, soccer, horse racing, bicycle racing, human track and field events, table tennis and other racquet events, except that attractions owned or operated by schools, colleges and universities shall be exempt from the provisions of this subsection. Attractions operating on an occasional or intermittent basis for fundraising property purposes by nonprofit charitable organizations whose ordinary activities do not involve the operation of such attractions shall be exempt from the admissions tourism tax imposed by this section.

Property means all the land, property or properties and space comprising the parcels, all improvements and structures erected, constructed or contained therein, including the building and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for mutual use, benefit or enjoyment of the unit owners, submitted to the provisions of RSMo 448.005—448.210.

Purchaser means a person who purchases tangible personal property or to whom are rendered services, receipts from which are taxable under this article.

Restaurant means any food service establishment where food is prepared and intended for individual portion service and includes the site at which individual portions are prepared which establishment has gross receipts derived from the sale of prepared meals or food consumed on or off the premises. The term includes any such place,

regardless of whether consumption is on or off the premises, having gross receipts derived from the sale of prepared meals or food consumed. The term also includes delicatessen type operations that prepare sandwiches intended for individual portion. The term also includes caterers which prepare finished food and drinks to be served off-premises having gross receipts derived from sale of prepared food and drinks sold in the city. The term includes those facilities for which the health department has required a three-vat sink and grease trap. The term does not include private homes where food is prepared for individual family consumption or food vending machines. A food or drink business operated in conjunction with a common eating and drink area shall also be considered to be a restaurant. The term does not include any private tourist attraction that includes the price paid or charged for food and drink as part of the purchase price paid or charged for any ticket, admission or participation.

Sale and *sales* include installment and credit sales, and the exchange of properties as well as the sale thereof for money, and every land transaction constituting a sale, and mean any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for valuable consideration and the rendering, furnishing or selling for a valuable consideration any of the substances, things, and services designated and defined as taxable under the terms of this article.

Sale at retail means any transfer made by any person engaged in business as defined in this section of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for valuable consideration. The term "sale at retail" shall be construed to include:

- (1) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events; and
- (2) Sales charges for all rooms, meals, and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drug-store, dining car, tourist camp, tourist

cabin or other place in which rooms, meals or drinks are regularly served to the public.

Sales Tax Act means RSMo 144.010—144.800.

Seller means the person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed pursuant to this article.

Transient guest means any person who occupies a room in a hotel, motel, campground, or tourist court for 30 consecutive days or less.

Tourism tax means either the tax payable by the purchaser of a commodity or services subject to the tourism tax or the aggregate amount of taxes due from the vendor of such commodities or service during the period for which he is required to report his collections, as the context may require.

(Code 1988, §§ 657.010, 657.020; Code 1996, §§ 645.010, 645.020; Code 2005, §§ 82-151, 82-152; Ord. No. 93-119, §§ 1, 2, 12-13-1993; Ord. No. 97-060, §§ 1—5, 11-6-1997; Ord. No. 97-080, § 1, 1-12-1998; Ord. No. 2001-074, § 1, 7-9-2001; Ord. No. 2002-023, § 5, 3-11-2002; Ord. No. 2010-051, § 1, 5-18-2010)

Sec. 82-93. Levy of tax.

There is hereby levied a municipal tourism tax (the "tourism tax") within the city, based upon the prices paid or charged for certain goods and services as follows:

- (1) *Amount of tax for hotels, motels, condominium units, timeshare interest in condominiums, campgrounds and tourist courts.* Every person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any hotel, motel, condominium unit, timeshare interest in condominiums, campground or tourist court shall collect at the time of sale or consumption and pay to the city a tourism tax equal to four percent of the price paid or charged by transient guests.
 - a. Persons deriving receipts from room charges in connection with any ho-

- tel, motel, condominium unit, time-share interest in condominiums, campground or tourist court, whether rented or leased on a daily, weekly or monthly basis, are subject to the tourism tax on these payments or charges unless the person renting or leasing is deemed to be a permanent resident.
- b. An educational institution which furnishes room and board to full-time students in pursuit of their educational objectives is not subject to the tourism tax on the payments or charges for these services.
- c. This tourism tax shall be in addition to all other license fees and taxes which are presently applicable to hotels, motels, condominium units, timeshare interests in condominiums, campgrounds and tourist courts operated as a business within the city.
- (2) *Amount of tax for food and drinks sold on premises of restaurant establishments.* Every person engaged in the business of selling food and drinks on the premises of any restaurant establishment or engaged in the business of selling drinks for consumption on the premises by any establishment licensed pursuant to RSMo 311.090 to sell intoxicating liquors in the city shall collect from the purchaser or user and pay to the city a tourism tax equal to 0.5 percent of the price paid or charged for such food and drinks.
- a. Mandatory gratuities are considered to be a necessary part of the sale when charged by restaurants or others and are subject to the tourism tax even when the charges are separately stated to the purchaser.
- b. Caterers are subject to the tourism tax on their prices paid or charged, including labor, services or mandatory gratuities which are a part of the sale.
- c. The tourism tax applies to the total selling price of drinks and beverages, whether intoxicating or otherwise, unless the business or person selling the drink has a prominently displayed sign separately stating the price of the drink as well as the amount of the applicable tourism tax or has an expressed written notice stating the price of a drink as well as the amount of the applicable tourism tax on the menu, ticket, bill or cash register receipt which is supplied to each purchaser.
- d. Clubs that regularly serve food and drinks to the public are subject to the tourism tax. Sellers of food and drinks, delivered in the city to common carriers for use in serving passengers or crew on public carriers without a separate stated charge for food and drink being made by the public carriers, are subject to the tourism tax on the prices paid or charged for all such sales.
- e. This tourism tax shall be in addition to all other license fees and taxes which are presently applicable to food and drink sales on the premises of any restaurant establishments operated as a business within the city or to drink sales on the premises of any establishments licensed pursuant to RSMo 311.090 to sell intoxicating liquors.
- f. Food and drink provided on an occasional or intermittent basis for fundraising purposes by not-for-profit organizations whose ordinary activities do not involve the operation of a restaurant shall be exempt from the food and drink tourism tax imposed by this subsection provided the city is notified in advance and an exemption letter is granted for the fundraising event. Tax-exempt schools, charitable institutions, colleges, universities, hospitals and nursing homes operating lunchrooms, cafeteria-

rias, dining rooms or any other facilities where food and drinks are provided to students or patients are not in the business of selling to the public and not subject to the tourism tax. This exemption does not apply to food or drinks sold at student unions, public dining rooms, cafeterias or the like which are open to the public, which are subject to the tourism tax on all sales. If the dining room, cafeteria or canteen is operated by an auxiliary or like group and is solely available for patients or families visiting the patients and use of all of the proceeds is for the patients' recreational and rehabilitation purposes, such food and drink are not subject to the tourism tax.

- (3) *Amount of tax for ticket or other charge on admissions to or participation in any private tourist attraction.* Every person engaged in the business of selling tickets or charging admissions to or for participation in private tourist attractions in the city shall collect from the purchaser or user and pay to the city a tourism tax equal to four percent on the purchase price paid or charged to any person for each ticket, admission or participation.

- a. All tickets sold to permit admission to any private tourist attraction shall be subject to the tourism tax on the single amount so stated and the tourism tax rate shall be applied against that amount. All fees or charges, including fees or charges paid for admission and seating accommodations, paid to or in any place of amusement, entertainment, recreation, games or covered athletic events are subject to the tourism tax when operated by a business or a not-for-profit organization as a business activity.
- b. Service charges in addition to the stated ticket price on tickets sold for admission to places of amusement are subject to tourism tax if levied by

the operator or proprietor of the places of amusement. Service charges on tickets sold for admission to places of amusement levied by sellers or handlers other than the operator or proprietor of the place of amusement are subject to the tourism tax.

- c. The tourism tax on sales of tickets, including season tickets, shall be collected and remitted by the seller at the time of sale or consumption of ticket.
- d. Sellers accepting coupons to be applied to the admission price are subject to the tourism tax on the total admission price, including any coupon reimbursement, whether cash, credit or otherwise, paid by third parties. Sellers who issue and redeem coupons and who are not reimbursed by a third party are subject to tourism tax on the admission price less the stated value of the coupons actually redeemed.
- e. Amounts paid in a place of amusement by members or by members on behalf of their guests are subject to the tourism tax.
- f. Receipts from sales of tickets for transportation of persons for hire by persons operating a railroad, sleeping car, dining car, express car, boat, excursion boat, bus, airplane, helicopter, or trolley are subject to the tourism tax.
- g. Amounts paid to not-for-profit civic, social, service or fraternal organizations solely in their civic or charitable functions and activities are not subject to the tourism tax provided the city is notified in advance of the activity and issues an exemption letter to the not-for-profit organization for the event.
- h. If the total selling price of a ticket is intended to include the tourism tax the seller must advise the purchaser of the cost of admission and the

amount of the tax by either printing the amount on the ticket or posting a prominently displayed sign stating the amount or by giving a separate written notice.

- i. Unless the seller complies with these requirements, the seller shall be subject to tourism tax on all receipts and the total sales price of the tickets shall be considered taxable receipts.
- j. This tourism tax shall be in addition to all other license fees and taxes which are presently applicable to tickets or other charges on admissions to or participation in any private tourist attractions operated as a business within the city.

(Code 1988, § 657.020; Code 1996, § 645.020; Code 2005, § 82-152; Ord. No. 93-119, § 2, 12-13-1993; Ord. No. 97-060, §§ 1—5, 11-6-1997; Ord. No. 97-080, § 1, 1-12-1998; Ord. No. 2001-074, § 1, 7-9-2001; Ord. No. 2002-023, § 5, 3-11-2002)

Sec. 82-94. Tourism tax trust fund.

(a) There is hereby established in the treasury of the city a tourism tax trust fund. All taxes levied and collected pursuant to this article shall be deposited by the finance director to the credit of such fund. Such fund shall be segregated and kept separate and apart from all other funds of the city and shall not be commingled with any other funds of the city, no matter from whatever source collected. The funds, net of the cost of collection, shall be collected, held and administered by the city in accordance with the terms and provisions of this article so that such funds on deposit in the tourism tax trust fund are to be expended and disbursed as required in this section:

- (1) Except as provided in subsection (a)(2) of this section, 75 percent of the taxes collected shall be deposited in an "Infrastructure Account" within the tourism tax trust fund and shall be used upon appropriation solely for the purpose of constructing and maintaining

infrastructure improvements, to include sidewalks, streets, highways, roads, waterworks, wastewater, including distribution and collection, and solid waste disposal facilities, the cost of which may be funded by issuing bonds which may be retired by revenues received from the funds on deposit in the tourism tax trust fund, and the costs of operation and maintenance of such infrastructure improvements.

- (2) Notwithstanding the provisions of subsection (a)(1) of this section, 25 percent of the taxes collected shall be deposited into a tourism promotion account within the tourism tax trust fund and shall be held, administered and disbursed for use, upon appropriation as provided for in this section, for tourism marketing and promotional purposes.

(b) The board shall annually budget and appropriate the amounts necessary to provide for the payment of the necessary expenses for the administration and collection of the tourism tax imposed under this article, which shall in no event exceed two percent of the collected revenues. (Code 1988, § 657.030; Code 1996, § 645.030; Code 2005, § 82-153; Ord. No. 93-119, § 3, 12-13-1993; Ord. No. 97-060, § 6, 11-6-1997; Ord. No. 97-080, § 2, 1-12-1998; Ord. No. 98-020, § 1, 2-23-1998)

Sec. 82-95. Contracting for tourism promotion.

(a) The board hereby finds that contracting with private persons to accomplish the requirements of the Municipal Tourism Act is in the best interest of citizens of the city, in providing for tourism marketing and promotion by persons experienced in providing such marketing and promotion thereby avoiding the duplication of efforts in attempting to accomplish these requirements. The board does hereby find it necessary and desirable to accomplish the foregoing to approve contracting between the city and a duly qualified marketing vendor to implement the tourism, marketing and promotion. The mayor is hereby authorized and directed to execute and deliver the contracts for and on behalf of the city

and the city clerk is hereby directed to attest and seal a contract, submitted to and considered by the board at its regular meeting.

(b) The finance director is hereby authorized to disburse the funds from the tourism tax trust fund to cover the cost of executing the contract in accordance with the approved budget. A copy of the budget when approved by the board will serve as an operating plan for the administration of the contracts.

(Code 1988, § 657.040; Code 1996, § 645.040; Code 2005, § 82-154; Ord. No. 93-119, § 4, 12-13-1993; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 82-96. Licenses; payment of tax.

(a) No person shall operate a hotel, motel, condominium unit, timeshare interest in a condominium, campground, tourist court, food or drink restaurant or private tourist attraction without a current city business license. As a condition to obtaining a license under this article, the person applying must show evidence of compliance with article II of chapter 22 and must have in his possession a retail sales license number issued by the state. Applications for such license shall be made to the finance department on forms prescribed for that purpose. The tourism tax due under this section shall be paid to the finance department monthly when a business estimates or averages more than \$7,200.00 in tourism taxes annually and shall be payable on or before the 20th of the following month. When a business estimates or averages \$7,200.00 or less in tourism taxes annually, their filings shall be remitted quarterly to the city by the 20th of the month immediately following the end of each quarter.

(b) Any business or any entertainment, recreation or place of amusement which is temporary or itinerant in nature may be required to file its returns and make its payment of the tourism tax on a daily basis with the finance director. Any duly authorized agent of the finance director, upon a personal visitation, is empowered to order the seller to ascertain the appropriate amount of tourism tax due and submit payment to him at the close of each business day. In all cases, sellers shall require proper identification

and credentials before submitting payments to the agent and require a written receipt to be issued by the agent. Every business conducting any business in the city subject to the tourism tax shall keep complete and accurate records of account as may be necessary for the finance director to determine the amounts paid or charged on all transactions. These records must include the normal books of account ordinarily maintained by the average prudent businessman engaged in a business subject to the tourism tax together with all bills, receipts, invoices, cash register tapes or other documents of original entry supporting the entries of the books of account together with schedules or working papers used in connection with the preparation of tourism tax returns.

(Code 1988, § 657.050; Code 1996, § 645.050; Code 2005, § 82-155; Ord. No. 93-119, § 5, 12-13-1993; Ord. No. 97-060, § 7, 11-6-1997; Ord. No. 97-080, § 3, 1-12-1998; Ord. No. 99-665, § 5, 4-12-1999; Ord. No. 2010-051, § 1, 5-18-2010; Ord. No. 2023-0026, § 2, 4-11-2023)

Sec. 82-97. Tourism tax returns required.

(a) Every person engaged in the business of operating a hotel, motel, condominium unit, timeshare interest in condominiums, campground, tourist court, food or drink restaurant or engaged in the business of selling drinks for consumption on the premises of any establishment licensed pursuant to RSMo 311.090 to sell intoxicating liquors, or private tourist attraction shall file with the finance department on prescribed forms, giving such information as may be necessary or required to determine the amounts paid or charged by the business to which the tourism tax shall apply. When a business estimates or averages more than \$7,200.00 in tourism taxes annually, their filings shall be remitted monthly, and shall be payable on or before the 20th of the following month. When a business estimates or averages \$7,200.00 or less in tourism taxes annually, their filings shall be remitted quarterly to the city by the 20th of the month immediately following the end of each quarter.

(b) Every such business shall file a tourism tax return with the finance department, so that it shall be received by that office or postmarked

on or before the due date, verified by the oath of the person, an officer or agent completing the tax return, showing the entire receipts of the business done in the city by the person during the previous reporting period, including the portion of amounts paid or charged for business done by such person in connection with another person. The tax return shall report as receipts all such sums earned or charged for business done within the city during the taxable reporting period whether actually received or not; and shall contain an abstract of the amount received under each business activity for which tourism tax is due and the total amount received for all business activities.

(c) If the person fails or refuses to file a tourism tax return by the due date showing an accurate account of its receipts as required in this section, or has failed to pay any tourism tax when due, such person shall be subject to all the penalties set forth in section 82-162 for each violation.

(Code 1988, § 657.060; Code 1996, § 645.060; Code 2005, § 82-156; Ord. No. 93-119, § 6, 12-13-1993; Ord. No. 95-77, § 1, 7-10-1995; Ord. No. 97-060, § 8, 11-6-1997; Ord. No. 97-080, § 4, 1-12-1998; Ord. No. 2010-051, § 1, 5-18-2010; Ord. No. 2023-0026, § 2, 4-11-2023)

Sec. 82-98. Examination of books and records.

(a) The finance director shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of any business licensed pursuant to this article as may be necessary to determine the correctness of the reports required by this article. Such books and records shall be preserved for at least three years, unless the finance director in writing authorizes the earlier destruction.

(b) All businesses must furnish reasonably sufficient work space, lighting and working conditions for use by the finance director and his agents for conducting of tourism tax audits.

(Code 1988, § 657.070; Code 1996, § 645.070; Code 2005, § 82-157; Ord. No. 93-119, § 7, 12-13-1993; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 82-99. Tourism tax deposit.

(a) All new business applicants for a city business license that will be required to pay city tourism taxes and any existing tourism taxpaying business who has their business license revoked are required to post and maintain a one-month tourism tax deposit with the city's finance department before a business license may be issued or before a revoked business license may be reinstated. For a revoked business, the deposit shall be the average monthly tourism tax liability of the previous 12 months in which the business was open and in which tourism tax was reported. For a new business, the deposit will be either:

- (1) The business' estimated monthly average tourism tax liability for the next 12 months; or
- (2) The previous owner/operator's monthly average tourism tax reported in its last 12 months that it was open at that location if the nature of the business is similar; whichever is higher. Regardless of the calculated amount, the minimum tourism tax deposit shall be in the amount provided in the city fee schedule. An approved letter of credit may be provided in lieu of a cash deposit in the event the calculated amount of the required deposit is \$5,000.00 or more.

(b) Each September the tourism tax deposits will be reviewed. Upon three consecutive years of timely tourism tax payments, the deposit will be refunded. No deposit for a closed business will be returned until the business has permanently closed for a continuous period of 45 days and until the final tax return has been filed and all tourism taxes have been paid, including any related penalties and interest still owed. If any tourism taxes, penalties, and/or interest are still owed 45 days after closure of the business, the tax deposit may be used to pay or partially pay any outstanding delinquency amount or may be applied to city-estimated tax returns in the event the license holder fails to file a tax return for any month in which it was open.

(c) Exception to the tourism tax deposit requirement may be granted at the discretion of the city administrator. Requests for the exception must be in writing.

(Code 1988, § 657.080; Code 1996, § 645.080; Code 2005, § 82-158; Ord. No. 93-119, § 8, 12-13-1993; Ord. No. 99-665, § 5, 4-12-1999; Ord. No. 2010-094, § 1, 8-24-2010)

Sec. 82-100. Collection; violations.

(a) The tourism tax levied pursuant to this article shall be paid by the purchaser or user to the seller, and it shall be the duty of each and every seller in this city to collect from the purchaser or user the full amount of the tourism tax levied by this article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) The seller shall add the tourism tax imposed pursuant to this article, or the average equivalent thereof, to the sale price or charge, and when added, such tourism tax shall constitute a part of such price or charge, shall be a debt from the purchaser or user to the seller until paid and shall be recoverable at law in the same manner as other debts.

(c) A seller who willfully or intentionally fails or refuses to collect the full amount of the tourism tax levied in this article, or willfully or intentionally fails, neglects or refuses to comply with the provisions of this article or remits or rebates to a purchaser or user, either directly or indirectly, and by whatsoever means, all or any part of the tourism tax levied in this article, or makes in any form of advertising, verbally or otherwise, any statement which infers that the seller is absorbing the tourism tax, or paying the tourism tax for the purchaser or user by an adjustment of prices or at a price including the tourism tax, or any manner whatsoever, shall be subject to the penalties set forth in section 82-103, plus costs, for each violation.

(Code 1988, § 657.090; Code 1996, § 645.090; Code 2005, § 82-159; Ord. No. 93-119, § 9, 12-13-1993; Ord. No. 95-77, § 2, 7-10-1995)

Sec. 82-101. Confidential records.

The confidential and privileged nature of the records and files concerning the administration

of the tourism tax is legislatively recognized and declared and to protect the same the provisions of RSMo 144.010 through 144.800 and RSMo 32.057, are adopted by reference and made fully effective and applicable to the administration of the tourism tax levied in this article as if set forth in full. The city may share tourism tax return and related licensing information with the state department of revenue.

(Code 1988, § 657.100; Code 1996, § 645.100; Code 2005, § 82-160; Ord. No. 93-119, § 10, 12-13-1993)

Sec. 82-102. Administrative changes.

The board hereby authorizes the finance director to make administrative and technical changes or additions in the method and manner of administration and enforcing this article as may be necessary and proper for efficiency and fairness, except the rate of the tourism tax and the classification of businesses shall not be changed without approval of the board.

(Code 1988, § 657.110; Code 1996, § 645.110; Code 2005, § 82-161; Ord. No. 93-119, § 11, 12-13-1993; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 82-103. Delinquency fees and penalties for nonpayment.

(a) *Delinquency fee.* For any amount of tourism tax due under provisions of this article that was not paid for the period owed, there shall be added to that amount a delinquency fee of ten percent of the delinquent tourism tax as the sum required to compensate for the collection of delinquent tourism taxes (the "collection charge"). Interest at the rate of 12 percent per annum shall be assessed on all unpaid amounts and collection charges.

(b) *Penalty.* Any person subject to the provisions of this article who fails to obtain a license, file a tax return or pay the tourism tax or files a false or fraudulent statement, as required by this article or within the time required by this article, shall, upon conviction thereof, be punished by the provisions of section 1-13. Each day after the first day that an action is required to be taken under this article and such action is not taken shall constitute a separate offense. Any

person failing to pay the city tourism tax for 30 days past the due date shall be subject to having his city business license revoked by a revocation order issued by the city clerk.

(c) *Revocation of licenses.* When a revocation order is issued for failure to file a tourism tax return or for nonpayment of tourism tax by the city clerk, all business licenses issued by the city to such delinquent sellers shall be deemed void at that point in time. Before the city business license can be reinstated, all such delinquent tourism tax, collection charges, penalties and accrued interest must be paid plus a reinstatement fee in the amount provided in the city fee schedule.

(Code 1988, § 657.120; Code 1996, § 645.120; Code 2005, § 82-162; Ord. No. 93-119, § 12, 12-13-1993; Ord. No. 95-77, § 3, 7-10-1995; Ord. No. 97-080, § 5, 1-12-1998; Ord. No. 2002-023, § 5, 3-11-2002; Ord. No. 2003-280, 11-24-2003; Ord. No. 2010-051, § 1, 5-18-2010)

Sec. 82-104. Adoption of state sales tax rules.

All sales tax rules pertaining to sales tax imposed and collected by the state under RSMo 144.170, 144.220 and 144.230 shall apply to the tourism tax except to the extent such rules may be inconsistent herewith.

(Code 1988, § 657.130; Code 1996, § 645.130; Code 2005, § 82-163; Ord. No. 95-77, § 4, 7-10-1995)

Sec. 82-105. Tourism tax assessment.

(a) The city assigned auditor will make assessments of tourism tax liability when the taxpayer fails to file the required tax return. This assessment is based on the taxpayers' books and records as required to be provided to the finance director in section 82-98.

(b) If the taxpayers records necessary to conduct an accurate examination are incomplete or illegible when conducting an examination of the accuracy of any tax return, or the taxpayer denies the assigned auditor access to the taxpayer's books and records for the purpose of conducting an examination of the accuracy of any tax return filed by the taxpayer, the finance

director will make a determination of the taxpayer's tax liability based on what records do exist and upon sound accounting practices.

(c) The taxpayer shall have ten working days to appeal in writing to the finance director any assessment the taxpayer feels is inaccurate, stating the specific reasons why the amount assessed is inaccurate and what the correct amount should be. The finance director will communicate his findings in writing to the taxpayer after completing a review of work papers provided by the taxpayer with the appeal letter.

(d) The appeal of the finance director's decision shall be a contested case pursuant to RSMo ch. 536. Said appeal shall not stay the effect of the city clerk's decision.

(Code 2005, § 82-164; Ord. No. 2010-051, § 1, 5-18-2010)

Sec. 82-106. Sale of business, withholding of tourism taxes owed at closing by buyer.

(a) If any business required to remit tourism taxes shall sell their business, their assets, or shall quit the business, such business or successor shall file a final tax return within 14 days after the date of selling or quitting the business.

(b) The finance director shall upon written request furnish within ten days to any secured creditor, owner, owner and proposed purchaser if joined in writing, a statement showing the amount of taxes, interest, and penalties due and owing, if any. Any amount owed to the city is to be withheld from the selling price by the purchaser at time of closing and remitted to the city on behalf of the seller within three working days of the closing date.

(c) Should a seller fail to provide a statement from the finance director regarding tourism taxes owed to the purchaser prior to consummation of the sale and validated with a dated purchaser's signature, the seller shall be liable for an additional penalty equal to 25 percent of the seller's delinquency at the time of sale. This

additional penalty shall be the sole liability of the seller and shall not be the liability of the purchaser.

(d) Nothing in this section shall eliminate the liability of the owner of the business owing tourism tax from the liability to pay such tourism tax.

(Code 2005, § 82-165; Ord. No. 2010-051, § 1, 5-18-2010)

Secs. 82-107—82-125. Reserved.

ARTICLE VII. CIGARETTE TAX

Sec. 82-126. License required; fee.

Each retailer of cigarettes in the city shall, before selling any cigarettes in the city, make application for a license to sell at retail cigarettes in the city, and pay a license fee in the amount provided in the city fee schedule per year, due annually on May 1.

(Code 1988, § 645.010; Code 1996, § 635.010; Code 2005, § 82-191; Ord. No. 250, § 1, 7-12-1954)

Sec. 82-127. Tax imposed.

A cigarette tax of \$0.04 per package of cigarettes bought for retail sale in the city, by a retailer licensed pursuant to this article, is hereby levied on each package of cigarettes bought for retail sale in the city, such tax to be used exclusively for parks and recreation purposes.

(Code 1988, § 645.020; Code 1996, § 635.020; Code 2005, § 82-192; Ord. No. 250, § 2, 7-12-1954; Ord. No. 651, § 1, 6-11-1984)

Sec. 82-128. Records of wholesale deliveries required; filing of copies of invoices; inspection of records; stock and equipment.

(a) For the purpose of enabling the finance director to properly enforce the terms of this article as to retail dealers licensed pursuant to this article, the following provisions are hereby enacted: At the time of delivering cigarettes to any retail dealer, each wholesale dealer who delivers cigarettes in the city shall make a true

duplicate invoice showing the date of delivery, the amount and value of each shipment of cigarettes delivered, and the name of the retail dealer to whom delivery is made, and shall retain the invoice for a period of three years, subject to the use and inspection of the finance director.

(b) Each wholesale dealer who delivers cigarettes in the city and each retailer dealer in the city shall procure and retain invoices showing the amount and value of each shipment of cigarettes received by him, and the date thereof and the name of the shipper, and shall retain the invoices for a period of three years, subject to the use and inspection of the finance director. The finance director, by regulation, may provide that, whenever cigarettes are shipped into the city, the railroad company, express company, trucking company or other public carrier transporting any shipment thereof shall file with the finance director a copy of the freight bill within ten days after delivery in the city of each shipment.

(c) All dealers within the city or who deliver cigarettes within the city shall maintain and keep, for a period of three years, such other records of cigarettes received, sold or delivered within the city as may be required by the finance director. The finance director is hereby authorized to examine the books, papers, invoices, and other records, and stock of cigarettes in and upon any premises where they are placed, stored and sold, and equipment of any such wholesale or retail dealer pertaining to the sale and delivery of cigarettes taxable under this article.

(d) To verify the accuracy of the cigarette tax imposed and assessed by this article, each such person is hereby directed and required to give to the finance director the means, facilities and opportunity for such examinations as are granted in this article to the finance director, who is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the cigarette tax.

(e) The finance director may delegate his powers to a deputy or other employee of his office.

(Code 1996, § 635.030; Code 2005, § 82-193; Ord. No. 99-665, § 5, 4-12-1999)

Sec. 82-129. Records of retailers.

A retailer licensed pursuant to this article shall keep an accurate record of the purchases of cigarettes for sale in the retailer's place of business, and shall keep the invoices on hand at all times, for at least a period of three years, and the city, by duly authorized agent, shall have access to such records and shall be authorized to check such records of purchase of cigarettes from time to time, during business hours of such retailer, as the city shall deem reasonable and proper.

(Code 1988, § 645.030; Code 1996, § 635.040; Code 2005, § 82-194; Ord. No. 250, § 4, 7-12-1954)

Sec. 82-130. Payment and report.

Each retailer in the city licensed pursuant to this article shall prepare and file with the finance director a statement, on a form provided by the city, showing the full amount of cigarettes purchased during the preceding quarter, and shall pay the cigarette tax of \$0.04 per package, and such payment and report shall be signed by such licensed retailer, and filed and paid between the first and tenth day of the month following the quarter in which the tax is due. The payment and report shall be due between the first and the tenth day of each month immediately following the end of each quarter.

(Code 1988, § 645.040; Code 1996, § 635.050; Code 2005, § 82-195; Ord. No. 250, § 5, 7-12-1954; Ord. No. 99-665, § 5, 4-12-1999; Ord. No. 2023-0026, § 2, 4-11-2023)

Sec. 82-131. Disposition of revenue.

All monies derived from the cigarette tax levied by this article shall be kept in a separate fund by the city and shall be used for the development and maintenance of the city's parks and recreation purposes.

(Code 1988, § 645.050; Code 1996, § 635.060; Code 2005, § 82-196; Ord. No. 250, § 6, 7-12-1954)

Sec. 82-132. Right of city to check records of sales by wholesalers.

The city shall have the right to check the records of wholesalers as to sale of cigarettes to retailers in the city.

(Code 1988, § 645.060; Code 1996, § 635.070; Code 2005, § 82-197; Ord. No. 250, § 7, 7-12-1954)

Sec. 82-133. Penalty for failure to secure license.

Any retailer of cigarettes in the city who shall fail to secure the annual license to sell cigarettes in the city, as provided in this article, or shall fail to prepare, file and pay the cigarette tax as provided in this article, shall be punished as set out in section 1-13.

(Code 1988, § 645.070; Code 1996, § 635.080; Code 2005, § 82-198; Ord. No. 250, § 8, 7-12-1954)

Sec. 82-134. Notice of suspension of license.

(a) Any retailer failing to keep an accurate set of books and records of invoices of purchases of cigarettes for sale in the city, or who shall fail to prepare and file the quarterly report showing accurately such retailer's purchase of cigarettes for sale in such report, or shall fail to file the report as due under this article, or shall fail to pay the full and accurate amount of tax under this article, shall be given ten days' written notice by the city that such retailer's license to sell cigarettes in the city will be suspended at the end of such ten days' notice.

(b) The retailer upon receiving such notice may ask for a hearing before the board, such date of hearing to be set by the board, and the retailer shall present his evidence, and the board shall continue the suspension or shall reinstate such retailer.

(Code 1988, § 645.080; Code 1996, § 635.090; Code 2005, § 82-199; Ord. No. 250, § 9, 7-12-1954; Ord. No. 2023-0026, § 2, 4-11-2023)

Sec. 82-135. Selling with suspended license.

It shall be unlawful for any retailer to sell or offer to sell cigarettes in the city while such

retailer's license is suspended, and, for violation of this section, any such person, or corporation, shall be fined as set out in section 1-13.

(Code 1988, § 645.090; Code 1996, § 635.100; Code 2005, § 82-200; Ord. No. 250, § 10, 7-12-1954)

Sec. 82-136. Compensation to retailer for making reports and paying tax.

In consideration of the retailer applying for his annual license, making quarterly reports and paying the cigarette tax, such retailer, if such is done before the tenth of the month immediately following the quarter for which report is to be made, shall be entitled to a fee of three percent of the money due and paid to such city on each quarterly report. This fee of three percent shall not be allowed if the report is past due and late. (Code 1988, § 645.100; Code 1996, § 635.110; Code 2005, § 82-201; Ord. No. 250, § 11, 7-12-1954; Ord. No. 2023-0026, § 2, 4-11-2023)

Sec. 82-137. Transfer of license.

The annual license fee in the amount provided in the city fee schedule and license issued therefor shall not be assigned, or transferred, and the license is good only to the retailer to whom the license is issued.

(Code 1988, § 645.110; Code 1996, § 635.120; Code 2005, § 82-202; Ord. No. 250, § 12, 7-12-1954)

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Chapter 86

TRAFFIC AND VEHICLES*

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***State law references**—Motor vehicles, RSMo Ch. 300 et seq.; model traffic ordinance, RSMo 300.010 et seq.; registration and licensing of motor vehicles generally, RSMo 301.002 et seq.; all terrain vehicles, RSMo 301.700 et seq.; motor vehicle financial responsibility law, RSMo 303.010 et seq.; traffic regulations, RSMo 304.001 et seq.; municipal regulation of traffic, RSMo 304.120; vehicle equipment regulations, RSMo 307.010 et seq.; administrative adjudication of parking and other nonmoving municipal code violations, RSMo 479.011; authority of municipalities to establish traffic violation bureau, RSMo 479.050.

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TRAFFIC AND VEHICLES

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ARTICLE I. IN GENERAL

Sec. 86-1. Penalty.

Except as otherwise specifically provided in this chapter, any person violating any of the provisions of this chapter shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-13.

(Code 2005, § 86-1)

Sec. 86-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Abandoned property means any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this article, whether or not operational.

Alcoholic beverage means and includes intoxicating liquor, non-intoxicating beer and any liquid having any alcoholic content, regardless of the percentage of alcoholic content by weight or volume and 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.

All-terrain vehicle (ATV) means as any motorized vehicle manufactured and used exclusively for off-highway use, with an unladen dry weight of 1,500 pounds or less, traveling on three, four or more nonhighway tires, with either:

- (1) A seat designed to be straddled by the operator, and handlebars for steering control, but excluding an electric bicycle; or
- (2) A width of 50 inches or less, measured from outside of tire rim to outside of tire rim, regardless of seating or steering arrangement.

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, constable or deputy sheriff, or traffic officer, or any privately owned vehicle operated as an ambulance when responding to emergency calls.

Bus means a motor vehicle designed for the transportation of a driver and eight or more passengers, but not including shuttle buses.

Child passenger restraint system and child booster seat mean seating systems which meet the federal motor vehicle safety standards, as defined by state law.

Commercial vehicle means every vehicle designed, maintained, or used primarily for the transportation of property. The term "commercial vehicle" includes, but is not limited to, any vehicle with a manufacturer's rated capacity exceeding one ton that is licensed commercially in any state, or any such vehicle with this indicated rating that is being used or could be used in any commercial capacity, including, but not limited to, dump trucks, delivery trucks, cement trucks, equipment hauling or towing trucks

Construction zone and work zone mean any area upon or around any street, highway, alley, or sidewalk of the city, which is visibly marked with signage as an area where construction, maintenance, or other work is temporarily occurring. The terms "construction zone" and "work zone" further include the lanes of any street, highway, or alley leading up to that area upon which an activity described in this subsection is being performed, beginning at the point where signs designating the area as a construction zone or work zone are posted.

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 highway, street or roadway except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

Crosswalk means:

- (1) That part of a roadway at an intersection included within the connections of the

lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Driver means every person who drives or is in actual physical control of a vehicle.

Freight curb loading zone means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

Golf cart means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and is not capable of exceeding speeds of 20 miles per hour.

Intersection.

- (1) The term "intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- (2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Laned roadway means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Low speed vehicle (LSV) means a low speed vehicle that is four-wheeled, whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour on a paved, level surface, and whose gross vehicle weight rating is less than 3,000 pounds.

Motor vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motorized bicycle, motorized bike, motortri-cycle or moped means any two-wheeled or three-wheeled device having an automatic transmission and a motor 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.

Moving violation means any violation of any section of article III or VI of this chapter where, at the time of violation, the motor vehicle involved is in motion.

Official traffic control devices means all signs, signals, markings and devices, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Park and parking mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Passenger car means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons. The term "passenger car" does not include motorcycles, motorized bicycles, motortricycles and trucks with a licensed gross weight of 12,000 pounds or more.

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.

Person, where used in this chapter, includes, but is not limited to, a driver or passenger.

Police officer means every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Public way means any street, alley, boulevard, parkway or other public thoroughfare.

Railroad means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

Railroad train means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

Recreational motor vehicle means 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.

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.

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.

School bus means any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes.

Skateboard means a four-wheeled device, with a platform on which to stand, powered by the user.

Stand and *standing* mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

Stop and stopping.

- (1) The terms "stop" and "stopping", when required, mean complete cessation from movement.
- (2) The terms "stop" and "stopping", when prohibited, mean any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

Towing company means any person who tows, removes or stores abandoned property.

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 the right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter.

Traffic means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

Traffic control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Traffic division means the traffic division of the police department of the city, or, if a traffic division is not established, then such term whenever used in this chapter shall be deemed to refer to the police department of the city.

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.

(Code 1988, §§ 300.030, 340.180, 340.240; Code 1996, §§ 300.020, 340.180, 340.230, 385.010; Code 2005, §§ 86-2, 86-118, 86-124, 86-591; Ord. No. 393, § 1, 5-25-1970; Ord. No. 89-28, §§ 1, 2, 7-24-1989; Ord. No. 91-16, §§ 1—5, 4-8-1991; Ord. No. 99-025, § 3, 2-8-1999; Ord. No. 99-959, § 9, 10-11-1999; Ord. No. 2000-085, § 1, 5-22-2000; Ord. No. 2001-124, 9-24-2001; Ord. No. 2018-0062, § 2, 6-26-2018; Ord. No. 2023-0122, § 2, 10-10-2023; Ord. No. 2024-0080, § 2, 9-10-2024)

State law reference—Similar provisions, RSMo 300.010.

Sec. 86-3. Moving violation in construction zone; penalty.

(a) Any moving violation, occurring within any construction zone or work zone, as defined in this chapter, shall be punishable by a fine of no less than \$250.00, but no more than \$500.00 and/or up to 90 days imprisonment.

(b) The penalty authorized in subsection (a) of this section shall only be assessed by the court if at least one worker is actually present in the construction zone or work zone at the time the moving violation occurs.

(Code 2005, § 86-3; Ord. No. 2005-201, § 1, 11-14-2005)

Secs. 86-4—86-32. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 86-33. Records of traffic violations.

(a) The police department shall keep a record of all violations of the traffic ordinances of the city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. The record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(b) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

(c) All such records and reports shall be public records.

(Code 1988, § 305.030; Code 1996, § 305.030; Code 2005, § 86-33; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.025.

Sec. 86-34. Investigation of accidents.

It shall be the duty of patrol officers of the police department to investigate traffic accidents and to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

(Code 1988, § 305.040; Code 1996, § 305.040; Code 2005, § 86-34; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.030.

Sec. 86-35. Traffic accident studies.

Whenever the accidents at any particular location become numerous, the police department shall cooperate with the city engineer in conducting studies of such accidents and determining remedial measures.

(Code 1988, § 305.050; Code 1996, § 305.050; Code 2005, § 86-35; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.035.

Sec. 86-36. Traffic accident reports.

The police department shall maintain a suitable system of filing traffic accident reports. Such reports shall be available for the use and information of the city engineer.

(Code 1988, § 305.060; Code 1996, § 305.060; Code 2005, § 86-36; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.040.

Sec. 86-37. Driver files to be maintained.

The police department shall maintain a suitable record of all traffic accidents, arrests and complaints reported for each driver.

(Code 1988, § 305.070; Code 1996, § 305.070; Code 2005, § 86-37; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.045.

Secs. 86-38, 86-39. Reserved.**Sec. 86-40. City engineer; authority of state highways and transportation commission.**

(a) The city engineer shall exercise the powers and duties with respect to traffic as provided in this chapter.

(b) The city engineer shall determine the installation and proper timing and maintenance of traffic control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering 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.

(c) The function of the city engineer with all the powers, duties and authority given under this chapter shall vest in the state highways and transportation commission for all controlled access highways, either divided or undivided, and other highways, streets, or state highways, as defined in section 86-2, which are presently in existence and maintained by the state highways and transportation commission and all such highways which are in the future built, constructed or which the state highways and transportation

commission assumes the responsibility to maintain within the corporate limits or within any area annexed by the city.

(d) The state highways and transportation commission shall have exclusive authority to place and maintain traffic control signs, signals and devices on all highways maintained by the state highways and transportation commission as defined in subsection (c) of this section. The state highways and transportation commission is given express authority to delegate to the district engineer any power or authority vested in the state highways and transportation commission by this Code.

(Code 1988, § 305.100; Code 1996, § 305.100; Code 2005, § 86-40; Ord. No. 393, §§ 1, 4, 5-25-1970)

State law reference—Similar provisions, RSMo 300.060.

Sec. 86-41. Emergency and experimental regulations.

(a) The police chief by and with the approval of the city engineer is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than one year.

(b) The city engineer may test traffic control devices under actual conditions of traffic.

(Code 1988, § 305.110; Code 1996, § 305.110; Code 2005, § 86-41; Ord. No. 393, § 1, 5-25-1970; Ord. No. 2011-002, § 1, 1-11-2011)

State law reference—Similar provisions, RSMo 300.065.

Sec. 86-42. Reserved.**Sec. 86-43. Authority of police and fire department officials to direct traffic; enforcement of traffic laws.**

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the police chief to enforce all street traffic laws of the city and all of the state vehicle laws applicable to traffic in the city.

(b) Officers of the police department or such officers as are assigned by the police chief are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire or accident, may direct or assist the police in directing traffic in the immediate vicinity.

(Code 1988, § 310.010; Code 1996, § 310.010; Code 2005, § 86-43; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.075.

Sec. 86-44. Obedience to police and fire department officials.

No person shall knowingly fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(Code 1988, § 310.020; Code 1996, § 310.020; Code 2005, § 86-44; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.080.

Sec. 86-45. Persons propelling pushcarts 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.

(Code 1988, § 310.030; Code 1996, § 310.030; Code 2005, § 86-45; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.085.

Sec. 86-46. Use of coasters, skateboards, roller skates and similar devices restricted.

No person upon roller skates, skateboards, 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 to any street set aside as a play street as authorized by ordinance of the city.

(Code 1988, § 310.040; Code 1996, § 310.040; Code 2005, § 86-46; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.090.

Sec. 86-47. Public employees to obey traffic regulations.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the federal government, the state, county, or city and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.

(Code 1988, § 310.050; Code 1996, § 310.050; Code 2005, § 86-47; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.095.

Sec. 86-48. Immediate notice of accident.

The driver of a vehicle involved in an accident within the city resulting in injury to or death of any person or total property damage to an apparent extent of \$500.00 or more to one person shall give, or cause to be given, notice of such accident to the police department as soon as reasonably possible.

(Code 1988, § 310.080; Code 1996, § 310.080; Code 2005, § 86-48; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.110.

Sec. 86-49. Written report of accident.

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to, or death of, any person or total property damage to an apparent extent of \$500.00 or more to one person shall, within five days after such accident, forward a written report of such accident to the police department. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while such driver was present.

(Code 1988, § 310.090; Code 1996, § 310.090; Code 2005, § 86-49; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.115.

Sec. 86-50. Notice of accident 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 86-48 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 86-49 and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after the accident make such report not made by the driver.

(Code 1988, § 310.100; Code 1996, § 310.100; Code 2005, § 86-50; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.120.

the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers.

(Code 1988, § 310.110; Code 1996, § 310.110; Code 2005, § 86-51; Ord. No. 393, § 1, 5-25-1970)

Sec. 86-52. Duty of police officers to enforce state regulations.

The officials of the city recognize state regulations as applicable to all highways, streets or alleys within the corporate limits, and all police officers are hereby ordered to enforce such provisions or regulations in like manner and effect and in the same manner as the provisions and regulations of this chapter.

(Code 1988, § 310.120; Code 1996, § 310.120; Code 2005, § 86-52; Ord. No. 273, § 5, 8-13-1956)

Sec. 86-53. Leaving the scene of an accident.

(a) A person commits the offense of leaving the scene of a motor vehicle accident when being the operator or driver of a vehicle on the highway or on any publicly or privately owned parking lot or parking facility generally open for use by the public and knowing that an injury has been caused to a person or damage has been caused to property, due to his culpability or to accident, he leaves the place of the injury, damage or accident without stopping and giving his name, residence, including city and street number, motor vehicle number and driver's license number, if any, to the injured party or to a police officer, or if no police officer is in the vicinity, then to the nearest police station or judicial officer.

(b) For the purposes of this section, all police officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned parking lot or parking facility for the purpose of investigating an accident and performing all necessary duties regarding such accident.

(Code 1996, § 310.130; Code 2005, § 86-53)

State law reference—Leaving the scene of a motor vehicle accident, RSMo 577.060.

Sec. 86-54. Hand and mechanical signals.

(a) 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 following manner:

- (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 center line of the highway along which the operator is proceeding before turning.
- (b) The signals required by this section 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 the signal must be given by a light or other signal 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 fourteen feet, which limit of fourteen feet shall apply to single vehicles or combinations of vehicles. The provisions of this subsection shall not apply to any trailer that 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.

State law reference—Similar provision, RSMo 304.019.

Secs. 86-55—86-70. Reserved.**DIVISION 2. PROCEDURE ON ARREST****Sec. 86-71. Uniform traffic ticket forms; records of traffic citations and arrests.**

(a) The city shall provide books containing uniform traffic tickets as prescribed by Supreme Court rule. The books shall include serially numbered sets of citations in quadruplicate in the form prescribed by Supreme Court rule.

(b) Such books shall be issued to the police chief, a record shall be maintained of every book so issued and a written receipt shall be required for every book. The judge hearing city ordinance violation cases may require that a copy of such record and receipts be filed with the court.

(c) The police chief shall be responsible for the issuance of such books to individual members of the police department. The police chief shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.
(Code 1988, § 380.010; Code 1996, § 370.010; Code 2005, § 86-71; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.575.

Sec. 86-72. Procedure for issuance of traffic tickets.

Except when authorized or directed under state law to immediately take a person before the municipal judge for the violation of any traffic laws, a police officer who halts a person

for such violation other than for the purpose of giving 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 Number 37.

(Code 1988, § 380.020; Code 1996, § 370.020; Code 2005, § 86-72; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.580.

Sec. 86-73. Uniform traffic ticket to be issued when vehicle illegally parked or stopped.

Whenever any motor vehicle without a 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 by the assigned court date.

(Code 1988, § 380.030; Code 1996, § 370.030; Code 2005, § 86-73; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.585.

Secs. 86-74—86-100. Reserved.

ARTICLE III. OPERATION OF VEHICLES

DIVISION 1. GENERALLY

Sec. 86-101. Exemptions for authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions granted in this section to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by siren, or while having 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, or a flashing blue light authorized by RSMo 307.175.

(d) The provisions of this section 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.

(Code 1988, § 310.060; Code 1996, § 310.060; Code 2005, § 86-101; Ord. No. 393, § 1, 5-25-1970; Ord. No. 2018-0062, § 2, 6-26-2018; Ord. No. 2023-0122, § 2, 10-10-2023)

State law reference—Similar provisions, RSMo 300.100.

Sec. 86-102. 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 righthand 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) Upon approaching a stationary vehicle displaying lighted red or red and blue lights, or a stationary vehicle displaying lighted amber or amber and white lights, the driver of every motor vehicle shall:

- (1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or
- (2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

(c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Code 1988, § 310.070; Code 1996, § 310.070; Code 2005, § 86-102; Ord. No. 393, § 1, 5-25-1970; Ord. No. 2024-0082, § 2, 9-24-2024)

State law reference—Similar provisions, RSMo 300.105.

Sec. 86-103. 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 an emergency call closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Code 1988, § 340.010; Code 1996, § 340.010; Code 2005, § 86-103; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.300.

Sec. 86-104. Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be

used at any fire or alarm of fire, without the consent of the fire department official in command.

(Code 1988, § 340.020; Code 1996, § 340.020; Code 2005, § 86-104; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.305.

Sec. 86-105. 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 chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

(Code 1988, § 340.030; Code 1996, § 340.030; Code 2005, § 86-105; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.310.

Sec. 86-106. Driving in procession.

Each driver in a funeral or other procession shall drive as near to the righthand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.

(Code 1988, § 340.040; Code 1996, § 340.040; Code 2005, § 86-106; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.315.

Sec. 86-107. Funeral processions to be identified.

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

(Code 1988, § 340.050; Code 1996, § 340.050; Code 2005, § 86-107; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.320.

Sec. 86-108. Driving on sidewalk.

The driver of a vehicle, except bicycles as provided for in this chapter, shall not drive within any sidewalk area except on a permanent or temporary driveway.

(Code 1988, § 340.070; Code 1996, § 340.070; Code 2005, § 86-108; Ord. No. 393, § 6, 5-25-1970)

State law reference—Similar provisions, RSMo 300.330.

Sec. 86-109. Limitations on backing.

The driver of a vehicle shall not back the vehicle unless such movement can be made with reasonable safety and without interfering with other traffic.

(Code 1988, § 340.080; Code 1996, § 340.080; Code 2005, § 86-109; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.335.

Sec. 86-110. Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(Code 1988, § 340.090; Code 1996, § 340.090; Code 2005, § 86-110; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.340.

Sec. 86-111. Manner of riding on motorcycles and similar vehicles; additional passengers.

(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.

(Code 1988, § 340.100; Code 1996, § 340.100; Code 2005, § 86-111; Ord. No. 393, § 1, 5-25-1970; Ord. No. 2024-0026, § 2, 3-26-2024)

Editor's note—Ord. No. 2024-0026, § 2, adopted Mar. 26, 2024, amended the title of § 86-111 to read as herein set out. The former § 86-111 was entitled "Manner of riding on motorcycles and similar vehicles; additional passengers; protective headgear."

State law reference—Similar provisions, RSMo 300.345.

Sec. 86-112. Operation of bicycles; riding motorized bicycles on sidewalk; operation of skateboards on public property.

(a) Every person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations in this Code and except as to those provisions of laws and ordinances which by their nature can have no application.

(b) No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(c) No person shall ride a bicycle upon a sidewalk within a commercial district.

(d) No person shall ride a motorized bicycle upon a sidewalk.

(e) No person shall ride a skateboard upon any sidewalk, bench, culvert, fence, fountain basin, hand railing, monument, pedestrian ramp, planter, pillar, public parking garage facility, retaining wall, stairway, step, stonework, storm-

water drainage channel, streetscape feature, table, or similar structure located on property owned or controlled by the city, within the city.

(Code 1988, § 340.110; Code 1996, § 340.110; Code 2005, § 86-112; Ord. No. 393, § 7, 5-25-1970; Ord. No. 2007-094, § 1, 10-8-2007)

State law reference—Similar provisions, RSMo 300.347.

Sec. 86-113. Operation of all-terrain vehicles, golf carts and low-speed vehicles.

(a) No person shall operate an all-terrain vehicle, golf cart or low-speed vehicle upon the streets and highways of this city, except as follows:

(1) All-terrain vehicles, golf carts or low-speed vehicles owned and operated by a governmental entity for official use.

(2) All-terrain vehicles, golf carts or low-speed vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation.

(3) All-terrain vehicles, golf carts or low-speed vehicles whose operators carry a special permit issued by this city pursuant to RSMo 304.013.

a. *Annual permits.* The police chief, or authorized designee, is hereby designated as the city official with authority to issue special permits for permitted vehicles in this section for one- or two-year increments on a form prepared by the city for:

(i) All-terrain vehicle.

(ii) Golf cart.

(iii) Low speed vehicle.

b. *Fees and term of special permits.* The annual fee for a special permit shall be \$15.00 per year not prorated and shall be collected by the official upon issuance of the special permit. No special permit shall be issued until the fee is paid. The one-year special permit shall be valid for 12 months. The two-year special permit shall be valid for 24 months.

c. *Special permit requirements.* To request a special permit, an individual must produce for visual inspection by the city official the following:

(i) The vehicle to be permitted with a functioning muffler.

(ii) Proof of ownership, with year, make and model listed of said vehicle.

(iii) Proof of liability insurance that specifically references the vehicle by serial number, year, make and model and meets proper coverage limits required by the laws of the State of Missouri for licensed motor vehicles. Proof of liability insurance should be carried with the vehicle at all times and produced upon the request of law enforcement.

(iv) Adequate brakes on golf carts.

(v) A slow-moving emblem in conformity with RSMo 307.127, or a bicycle safety flag, which extends not less than seven feet above the ground attached to the rear of the vehicle. The flag shall be day-glow colored and shall be triangular-shaped, with an area of not less than 30 square inches.

(4) All-terrain vehicles, golf carts or low-speed vehicles when operated pursuant to a special event permit per section 94-65 of this Code.

(b) No person shall operate an off-road vehicle, as defined in RSMo 304.001, within any stream or river in this city, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All

law enforcement officials or police officers of this state and its political subdivisions shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

(c) (1) A person operating an all-terrain vehicle, golf cart or low-speed vehicle on a street or highway pursuant to an exception covered in this section shall have a valid license issued by a state authorizing such person to operate a motor vehicle, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than 30 miles per hour. The vehicle shall not be operated on any state or federal highway, except to cross said state or federal highway that intersects with a municipal street. Each operator shall maintain financial responsibility on the vehicle, as required by RSMo 303.010.

(2) Proof of financial responsibility. Every person operating an all-terrain vehicle, golf cart or low speed vehicle shall possess and maintain proof of financial responsibility in accordance with RSMo 303.160 or maintain any other insurance policy providing equivalent liability coverage for said permitted vehicle.

(d) No person shall operate an all-terrain vehicle, golf cart or low-speed vehicle:

- (1) In any careless way so as to endanger the person or property of another;
- (2) While under the influence of alcohol or any controlled substance; or
- (3) Without securely fastened protective headgear meeting applicable state standards and specifications on the head of an individual who operates an all-terrain vehicle, golf cart or low-speed vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, golf cart or low-speed vehicle, unless the individual is at least 18 years of age.
- (4) No person shall ever operate any vehicle defined in this section herein on a federal

interstate highway, street or highway with a speed limit greater than 25 miles per hour.

(e) No operator of an all-terrain vehicle, golf cart or low-speed vehicle shall carry a passenger, except for agricultural purposes.

(f) Every person operating any vehicles defined in this section on a street or highway shall comply with all ordinances regarding motor vehicles and rules of the road.

All traffic laws enforceable against licensed motor vehicles within the city limits of the city shall be equally enforceable against the operator of the all-terrain vehicles, golf carts and low speed vehicles.

(g) *Violations: penalty.* Any person who violates any provision of this section shall be guilty of an offense upon conviction, and said violation shall be punishable pursuant to section 1-13 of this Code.

(Code 1996, § 340.120; Code 2005, § 86-113; Ord. No. 393, § 1, 5-25-1970; Ord. No. 2024-0080, § 2, 9-10-2024)

State law reference—Similar provisions, RSMo 300.348.

Sec. 86-114. Riding bicycles, sleds, roller skates or similar vehicles by attaching to another vehicle.

(a) No person riding upon any bicycle, motorized bicycle, coaster, roller skates, skateboard, sled or toy vehicle shall attach such vehicle or himself to any vehicle upon a roadway.

(b) No driver of a vehicle shall knowingly pull a rider behind a vehicle.

(Code 1988, § 340.120; Code 1996, § 340.130; Code 2005, § 86-114; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.350.

Sec. 86-115. Entering or exiting from controlled access roadway.

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as established by public authority.

(Code 1988, § 340.130; Code 1996, § 340.140; Code 2005, § 86-115; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.355.

Sec. 86-116. Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(Code 1988, § 340.150; Code 1996, § 340.160; Code 2005, § 86-116; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.365.

Sec. 86-117. Metal-tired vehicles prohibited.

No metal-tired vehicle shall be operated over any of the improved streets, avenues, alleys, or public thoroughfares of the city, except over those constructed of gravel or clay-bound gravel, if such vehicle has on the periphery of any of the

road wheels any lug, flange, cleat, ridge, bolt or any projection of metal which projects radially beyond the tread or traffic surface of the tire or track unless the street is protected by putting down solid planks or other suitable material or by attachments to the wheels or track so as to prevent such vehicle from damaging the street, except that this prohibition shall not apply to tractors or traction engines equipped with what is known as caterpillar treads, when such caterpillar does not contain any projection of any kind likely to injure the surface of the road. Tractors, traction engines and similar vehicles may be operated which have upon their road wheels V-shaped, diagonal or other cleats arranged in such manner as to be continuously in contact with the road surface if the gross weight on the wheels per inch of width of such cleats or road surface, when measured in the direction of the axle of the vehicle, does not exceed 800 pounds. (Code 1988, § 340.160; Code 1996, § 340.170; Code 2005, § 86-117; Ord. No. 343, § 1, 5-11-1965)

State law reference—Similar provisions, RSMo 304.250.

Sec. 86-118. Driving while intoxicated; open containers.

(a) *Reserved.*

(b) *Transport or possession of alcoholic beverages by driver.* 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.

(1) This section 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.

(2) This section 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.

- (3) Any evidence of:
- a. An alcoholic beverage container in the passenger area of such vehicle; and
 - b. Alcoholic consumption by the driver; shall be *prima facie* evidence that such driver has disobeyed this section.

(c) *Nonapplicability.* The exemption applicable to chartered buses under subsection (a)(1) of this section does not apply to any vehicle being used for school purposes.

(d) *Driving while intoxicated.* No person shall operate a motor vehicle within the city limits while in an intoxicated condition. Evidence and procedure shall be as provided generally by court decision and by enactment of RSMo ch. 577, as related to driving while intoxicated.

(e) *Driving under influence of drugs.* No person shall operate a motor vehicle within the city limits while under the influence of drugs. Evidence and procedure shall be as provided generally by court decision and by enactment of RSMo ch. 577, as related to driving while under the influence of drugs. Notwithstanding the foregoing, a conviction of a person who is at least 21 years of age for driving under the influence of marijuana shall require evidence that the person was in fact under the influence of marijuana at the time the person was in physical control of the motorized form of transport and not solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system.

(f) *Operating vehicle with high blood alcoholic content.* A person commits the crime of "driving with excessive blood alcohol content" if he operates a motor vehicle in the city with 0.08 percent or more by weight of alcohol in his blood. 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 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—577.041.

(g) *Consumption of marijuana in a vehicle.* It is unlawful for any person to:

- (1) Consume marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (2) Smoking marijuana within a motor vehicle, train, aircraft, motorboat, or any other motorized form of transport while it is being operated (regardless of whether that person is in control of said vehicle).
(Code 1988, § 340.180; Code 1996, § 340.180; Code 2005, § 86-118; Ord. No. 89-28, §§ 1, 2, 7-24-1989; Ord. No. 99-025, § 3, 2-8-1999; Ord. No. 99-959, § 9, 10-11-1999; Ord. No. 2001-124, 9-24-2001; Ord. No. 2023-0053, § 2, 5-23-2023)

State law reference—Similar provisions, RSMo 577.012, 577.017.

Sec. 86-119. Vehicles to be driven on right half of roadway; exceptions; traffic lanes.

(a) All vehicles not in motion shall be placed with their right side as near the righthand side of the highway as practicable, except on streets where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.

(b) 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 under 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—304.026, or traffic regulations thereunder or of the city;
- (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.

(c) 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 turn 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 state department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or the police department.

(d) The police department may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the highway, and police officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

(e) Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent with this section 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 signposted 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 righthand lane for traffic or as close as practicable to the righthand edge or curb, except as otherwise provided in RSMo 304.014—304.026.

(f) Official signs may be erected by the state highways and transportation commission or the state 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.

(g) 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.

(h) 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.

(Code 1988, § 340.200; Code 1996, § 340.190; Code 2005, § 86-119)

State law reference—Similar provisions, RSMo 304.015.

Sec. 86-120. Careless and imprudent driving.

Every person operating a motor vehicle upon the public streets and highways within the city or upon any public or private parking lot, or parking lot for the use of customers, business invitees or employees of commercial or industrial establishments, shall operate the vehicle in a careful and prudent manner, exercising the highest degree of care, and shall operate their motor vehicle at a rate of speed so as not to endanger the property of another or the life or limb of any person.

(Code 1988, § 340.210; Code 1996, § 340.200; Code 2005, § 86-120; Ord. No. 93-102, §§ 1—3, 9-30-1993)

State law reference—Motorists to exercise highest degree of care, RSMo 304.012.

Sec. 86-121. Aiding or assisting exhibition of acceleration prohibited.

No person shall aid or assist in the performance of an exhibition of acceleration on a highway, street, public parking lot, or private parking lot by any means whatsoever. Any person who shall deposit a substance on a highway, street or parking lot for the purpose of enabling a vehicle to break traction for any exhibition of acceleration, and any person who shall push or hold a motor vehicle which is engaging in an exhibition of acceleration, shall be deemed to aid or assist in the performance of an exhibition of acceleration.

(Code 1996, § 340.205; Code 2005, § 86-121; Ord. No. 99-977, § 1, 10-25-1999)

State law reference—Motorists to exercise highest degree of care, RSMo 304.012.

Sec. 86-122. Passing school buses.

(a) Any driver of a vehicle upon any street, alley or highway within the city, upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any schoolchildren or other passengers when the driver of the school bus has in the manner prescribed by law given a signal to stop, shall stop such vehicle before reaching such school bus and shall not proceed until such school bus resumes motion or until signaled by its driver to proceed.

(b) If any vehicle is witnessed by a police officer or the driver of a school bus to have violated the provisions of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered committed the violation. If charges are filed against multiple owners of a motor vehicle, only one of the owners may be convicted and court costs may be assessed against only one of the owners. If the vehicle which is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the presumption by providing the police officer or prosecuting authority with a copy of the rental or lease agreement in effect at the

time of the violation. No prosecuting authority may bring any legal proceedings against a rental or leasing company under this section unless prior written notice of the violation has been given to that rental or leasing company by registered mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within 15 days of receipt of such notice.

(c) Every such school bus operating within the city shall comply with all rules or regulations of the state board of education in and for the operation thereof.

(Code 1988, § 340.220; Code 1996, § 340.210; Code 2005, § 86-122; Ord. No. 273, § 19, 8-13-1956; Ord. No. 98-043, § 1, 4-27-1998)

State law reference—Similar provisions, RSMo 304.050.

Sec. 86-123. Operation of motorized bicycles.

The following is a list of requirements to be adhered to in operation of a motorized bicycle in the city:

- (1) *Proof of age.* Every operator of a motorized bicycle in the city shall be 16 years of age and have proof of age.
- (2) *Driver's license required.* Every operator of a motorized bicycle in the city shall have a valid automobile operator's license. This will serve as proof of age.
- (3) *Compliance with laws.* Every operator of a motorized bicycle in the city shall comply with all state and local laws, including traffic laws.

(Code 1988, § 340.230; Code 1996, § 340.220; Code 2005, § 86-123; Ord. No. 90-1, 1-8-1990; Ord. No. 2020-0093, § 2, 8-25-2020)

State law references—License required to operate motorized bicycle, RSMo 307.195; helmet required to ride motorcycle or motortricycle, RSMo 302.020.

Sec. 86-124. Commercial vehicles.

(a) *Use of certain streets prohibited.* No person shall operate any commercial vehicle or bus upon any street within a residential district or upon any street within the city that has been designated and posted to restrict commercial

vehicle use as defined in this chapter, except for school buses or while making deliveries or when used for the purpose of conducting bona fide business thereon.

(b) *Alternate routes.* The city has provided and allowed for alternate routes of travel for commercial vehicles so that no undue hardship or inconvenience will be incurred by any person operating a commercial vehicle and prohibited from using any designated and posted streets.

(c) *Signs.* Signs will be erected by the city engineer to designate restricted street use by commercial vehicles. The city engineer shall have the sole responsibility to designate the restricted streets.

(Code 1988, § 340.240; Code 1996, § 340.230; Code 2005, § 86-124; Ord. No. 91-16, §§ 1—5, 4-8-1991; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 86-125. Distance at which vehicle must follow.

The driver of a vehicle shall not follow another vehicle more closely than is reasonably 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 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.

(Code 1996, § 340.240; Code 2005, § 86-125)

State law reference—Similar provisions, RSMo 304.017.

Sec. 86-126. Passengers in truck beds.

(a) *Truck bed operation generally.*

- (1) No person shall operate any truck, as defined in RSMo 301.010, with a licensed gross weight of less than 12,000 pounds within the corporate limits of the city when any person under 18 years of age is riding in the unenclosed bed of such truck.

- (2) No person under 18 years of age shall ride in the unenclosed bed of such truck when the truck is in operation.
- (b) *Exemptions.* The provisions of this section shall not apply to:
- (1) An employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;
 - (2) Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;
 - (3) Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan or exhibition which is authorized by law;
 - (4) Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling or jumping from the truck;
 - (5) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of participating in a special event and it is necessary that the person ride in such unenclosed bed due to a lack of available seating.
 - (6) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or
 - (7) Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in such truck. For the purposes of this subsection, the

term "family" shall mean any persons related within the first degree of consanguinity.

(Code 1996, § 340.250; Code 2005, § 86-126; Ord. No. 97-064, § 1, 12-8-1997; Ord. No. 2002-053, § 3, 5-28-2002; Ord. No. 2016-0193, § 2, 12-13-2016)

State law reference—Similar provision, RSMo 304.665.

Sec. 86-127. Passing.

(a) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions stated in this section:

- (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and
- (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

(b) The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a city street with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction;
- (3) Upon a one-way street;
- (4) Upon any highway with unobstructed pavement of sufficient width and clearly marked for four or more lanes of traffic. The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway. The provisions of this subsection shall not

relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the righthand edge of the roadway.

(c) Except when a roadway has been divided into three traffic lanes, no vehicle shall be driven to the left side of the centerline of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(d) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard if another vehicle might approach from the opposite direction.
- (2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, tunnel or when approaching within 100 feet of or at any intersection or railroad grade crossing.

(e) When a roadway has been divided into traffic lanes separated by a center median turn lane, no vehicle shall be driven in the center median turn lane to overtake or pass another vehicle proceeding in the same direction.

(Code 1996, § 340.260; Code 2005, § 86-127; Ord. No. 99-025, § 4, 2-8-1999)

State law reference—Similar provisions, RSMo 304.016.

Sec. 86-128. Prohibition of pocket bikes and certain motorized scooters.

(a) Pocket bikes and motorized scooters, definition:

- (1) Self-propelled vehicles equipped with either an electric motor or an internal combustion engine with piston displacement of less than 50 cubic centimeters;

- (2) Two or more wheels;
- (3) A seat or operating platform with a height of less than 29 inches, measured from the lowest point of the seat or operating platform; and
- (4) Which 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 this city or any property owned by the city.

(c) Nothing in this section shall be interpreted to apply to motorized mobility devices for the physically disabled.

(d) Nothing in this section shall be interpreted to apply to electric personal assistive mobility devices as defined in RSMo 307.205.1.

(Code 2005, § 86-128; Ord. No. 2005-135, § 1(340.270), 8-8-2005)

Sec. 86-129. Moped operation requirements.

(a) *Proof of age and valid driver's license required for moped operators.* Every operator of a moped within the city shall be at least 16 years of age, and shall possess a valid driver's license. If the moped is rented, it shall be the responsibility of the renter to obtain proof of age and proper licensing before renting to any person. Licensing must be in accordance with state statute for vehicles rented.

(b) *Duty of operators to comply with applicable law.* It shall be the duty of all operators of mopeds and moped passengers governed by this division to abide by all applicable state laws and city ordinances.

(c) *Protective headgear required.* Every person operating or riding as a passenger on a moped on any highway in the city shall wear protective headgear at all times the vehicle is in motion. The headgear shall meet applicable state standards and specifications.

(Code 1988, §§ 675.050, 675.080; Code 1996, §§ 655.050, 655.080; Code 2005, §§ 26-305, 26-308; Ord. No. 90-1, §§ 5, 8, 1-8-1990)

Sec. 86-130. Failing to control vehicle.

The driver of a vehicle that collides with any other vehicle lawfully stopped, parked or proceeding in the same direction of travel in a designated lane of traffic shall be guilty of the offense of failing to devote sufficient attention to control of a vehicle.

Sec. 86-131. Reserved.

Editor's note—Ord. No. 2023-0122, § 2, adopted Oct. 10, 2023, deleted § 86-131 entitled "Limitations on use of handheld electronic wireless communication device," which derived from Ord. No. 2018-0062, § 2, adopted June 26, 2018.

Secs. 86-132—86-150. Reserved.

DIVISION 2. SPEED

Sec. 86-151. Applicability of state speed laws; speed limits on specific streets.

(a) The state traffic laws regulating speed of vehicles shall be applicable upon all streets within the city, except that the city may by ordinance declare and determine upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof.

(b) The city will submit to the state highways and transportation commission for approval any ordinances, rules, regulations, or resolutions pertaining to the regulation of speed where such ordinances, rules, regulations, or resolutions are

applicable to section 86-40(c) and will not enact or keep in force any ordinance not approved by the state highway and transportation commission.

(c) Speed reduction sites may be created from time to time within construction zones as needed and established by the city engineer and shall be posted with appropriate and safe speed as determined by need and enforcement of such speed shall be immediate upon such posting.

(Code 1988, § 320.010; Code 1996, § 320.010; Code 2005, § 86-151; Ord. No. 393, § 5, 5-25-1970)

State law reference—Similar provisions, RSMo 300.205.

Sec. 86-152. Regulation of speed by traffic signals.

The city 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.

(Code 1988, § 320.020; Code 1996, § 320.020; Code 2005, § 86-152; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.210.

Sec. 86-153. Driving at slow speed.

No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Police officers may enforce the provisions of this section by directions to drivers and, in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance with this section, the continued slow operation by a driver is a violation of this section.

(Code 1988, § 320.030(B); Code 1996, § 320.030; Code 2005, § 86-153)

State law reference—Similar provision, RSMo 304.011.

Sec. 86-154. Use of results of speed measuring device as evidence of violation.

The use of, and results determined by, any speed measuring device, machine or mechanism which seeks to reduce the error of manual opera-

tion to a minimum shall be acceptable as evidence where driving in excess of posted speed limits is the cause of action; except the use thereof shall not be construed to exclude any competent evidence secured by any other manner or means. (Code 1988, § 320.040; Code 1996, § 320.040; Code 2005, § 86-154; Ord. No. 273, § 8, 8-13-1956)

Secs. 86-155—86-170. Reserved.

DIVISION 3. TURNING MOVEMENTS

Sec. 86-171. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the righthand 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 by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one 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 lefthand 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 lefthand 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 has 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.

(Code 1988, § 325.010; Code 1996, § 325.010; Code 2005, § 86-171; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.215.

Sec. 86-172. Authority to place and obedience to turning markers.

(a) The city engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(b) When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

(Code 1988, § 325.020; Code 1996, § 325.020; Code 2005, § 86-172; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.220.

Sec. 86-173. Authority to place restricted turn signs.

The city engineer is hereby authorized to determine those intersections at which drivers of

vehicles shall not make a right turn, left turn or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event such hours shall be plainly indicated on the signs or the signs may be removed when such turns are permitted.

(Code 1988, § 325.030; Code 1996, § 325.030; Code 2005, § 86-173; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.225.

Sec. 86-174. Obedience to no-turn signs.

The driver of a vehicle shall obey the directions of any signs erected indicating that no right turn or left turn or U-turn is permitted.

(Code 1988, § 325.040; Code 1996, § 325.040; Code 2005, § 86-174; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.230.

Sec. 86-175. Limitations on turning around.

The driver of a vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(Code 1988, § 325.050; Code 1996, § 325.050; Code 2005, § 86-175; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.235.

Secs. 86-176—86-190. Reserved.

DIVISION 4. ONE-WAY STREETS AND ALLEYS

Sec. 86-191. Placement of signs.

Whenever any ordinance of the city designates any one-way street or alley the city engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(Code 1988, § 330.010; Code 1996, § 330.010; Code 2005, § 86-191; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.240.

Sec. 86-192. Obedience to signs.

Upon those streets and parts of streets and in those alleys described and designated by ordinance, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(Code 1988, § 330.020; Code 1996, § 330.020; Code 2005, § 86-192; Ord. No. 393, § 1, 5-25-1970; Ord. No. 99-025, § 1, 2-8-1999)

State law reference—Similar provisions, RSMo 300.245.

Sec. 86-193. Authority to restrict direction of movement on streets during certain periods.

(a) The city engineer is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The city engineer 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.

(Code 1988, § 330.030; Code 1996, § 330.030; Code 2005, § 86-193; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.250.

Secs. 86-194—86-210. Reserved.**DIVISION 5. RIGHT-OF-WAY****Sec. 86-211. Through streets designated.**

Those streets and parts of streets described by ordinances of the city are declared to be through streets for the purposes of this division.

(Code 1988, § 335.010; Code 1996, § 335.010; Code 2005, § 86-211; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.255.

Sec. 86-212. Signs required at through streets.

Whenever any ordinance of the city designates and describes a through street, it shall be the duty of the city engineer to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at 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 such streets as may be determined by the city engineer upon the basis of an engineering and traffic study.

(Code 1988, § 335.020; Code 1996, § 335.020; Code 2005, § 86-212; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.260.

Sec. 86-213. Other intersections where stop or yield required.

The city engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one or more entrances to any such intersection, in which event 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 86-214(a), in which event he shall cause to be erected a yield sign at every place where obedience thereto is required.

(Code 1988, § 335.030; Code 1996, § 335.030; Code 2005, § 86-213; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.265.

Sec. 86-214. Stopping at 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, if there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(b) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(Code 1988, § 335.040; Code 1996, § 335.040; Code 2005, § 86-214; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.270.

Sec. 86-215. Duties of driver entering stop intersection.

Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by section 86-214(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 such highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(Code 1988, § 335.050; Code 1996, § 335.050; Code 2005, § 86-215; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.275.

Sec. 86-216. Duties of driver 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.

(Code 1988, § 335.060; Code 1996, § 335.060; Code 2005, § 86-216; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.280.

Sec. 86-217. Rules for yielding right-of-way.

The following rules shall govern yielding of the right-of-way, but are not intended to be exclusive, and do not preclude other right-of-way provisions in other sections of this Code:

- (1) The driver of a vehicle approaching an intersection at which there is no form of traffic control shall yield the right-of-way to a vehicle which has entered the intersection from a different street, or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.
- (2) When two vehicles enter an intersection from different streets 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 of such vehicles is attempting to or is making a left turn.
- (3) The driver of a vehicle within an intersection intending to turn to the 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 any vehicle shall stop as required by this section at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection on the through street, or which are approaching so closely on the through street as to constitute an immediate hazard.
- (5) The driver of a vehicle about to enter or cross a street from an alley, building or any private road or driveway shall stop before entering the street and yield the right-of-way to all vehicles approaching on such street.
- (6) The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to

any vehicle approaching from the opposite direction when the making of such left turn would create an immediate hazard.

- (7) When there is more than one lane of traffic in one direction, or a center median turn lane, the driver of the vehicle attempting to change lanes shall yield the right-of-way to a vehicle already in the lane that he is attempting to enter.
 - (8) The driver of a vehicle attempting to make a right turn shall yield the right-of-way to a bicycle rider traveling along the right edge of the street.
 - (9) 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 alley or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision.
- (Code 1988, § 335.070; Code 1996, § 335.070; Code 2005, § 86-217; Ord. No. 393, § 1, 5-25-1970; Ord. No. 99-025, § 2, 2-8-1999)

Sec. 86-218. 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.

(Code 1988, § 335.080; Code 1996, § 335.080; Code 2005, § 86-218; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.290.

Sec. 86-219. 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 requirements 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.

(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.

(Code 1988, § 335.090; Code 1996, § 335.090; Code 2005, § 86-219; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.295.

Secs. 86-220—86-280. Reserved.

ARTICLE IV. PEDESTRIANS

Sec. 86-281. Rights and restrictions generally; obedience to traffic control signals.

Pedestrians shall be subject to traffic control signals as declared in sections 86-436 and 86-437, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

(Code 1988, § 345.010; Code 1996, § 345.010; Code 2005, § 86-281; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.370.

Sec. 86-282. 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 86-285(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.

(Code 1988, § 345.020; Code 1996, § 345.020; Code 2005, § 86-282; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.375.

Sec. 86-283. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Code 1988, § 345.030; Code 1996, § 345.030; Code 2005, § 86-283; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.380.

Sec. 86-284. 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.

(Code 1988, § 345.040; Code 1996, § 345.040; Code 2005, § 86-284; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.385.

Sec. 86-285. 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 rules in subsections (a) and (b) of this section have no application under the conditions stated in section 86-286 when pedestrians are prohibited from crossing at certain designated places.

(Code 1988, § 345.050; Code 1996, § 345.050; Code 2005, § 86-285; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.390.

Sec. 86-286. Prohibited crossing.

(a) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(b) No pedestrian shall cross a roadway other than in a crosswalk in any commercial district.

(c) No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by ordinance.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(Code 1988, § 345.060; Code 1996, § 345.060; Code 2005, § 86-286; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.395.

Sec. 86-287. Obedience 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.

(Code 1988, § 345.070; Code 1996, § 345.070; Code 2005, § 86-287; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.400.

Sec. 86-288. Walking along roadways.

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(Code 1988, § 345.080; Code 1996, § 345.080; Code 2005, § 86-288; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.405.

Secs. 86-289—86-310. Reserved.

ARTICLE V. STOPPING, STANDING AND PARKING

DIVISION 1. GENERALLY

Sec. 86-311. Parking on roadway generally; maximum distance from curb.

Except as otherwise provided in this article, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the righthand wheels of such vehicle parallel to and within 18 inches of the righthand side of the curb or roadway and must park in direction of traffic flow. On one-way streets, vehicles may park on either side of the street but within 18 inches of the curb or roadway.

(Code 1988, § 355.010; Code 1996, § 350.010; Code 2005, § 86-311; Ord. No. 393, § 1, 5-25-1970; Ord. No. 93-73, § 6(m), 8-9-1993)

State law reference—Similar provisions, RSMo 300.415.

Sec. 86-312. Designation of streets where angle parking permitted.

(a) The city engineer shall determine upon what streets angle parking shall be permitted and shall mark or sign such street.

(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 railroad tracks.

(Code 1988, § 355.020; Code 1996, § 350.020; Code 2005, § 86-312; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.420.

Sec. 86-313. Obedience to angle parking signs or markers.

No person shall park or stand a vehicle on those streets which have been signed or marked by the city engineer for angle parking other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Code 1988, § 355.030; Code 1996, § 350.030; Code 2005, § 86-313; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.425.

Sec. 86-314. Backing into angle parking space.

No vehicle may be backed into an angle parking space except as allowed under section 86-315.

(Code 1988, § 355.035; Code 1996, § 350.035; Code 2005, § 86-314; Ord. No. 93-73, § 6(p), 8-9-1993)

Sec. 86-315. Permit for loading or unloading at angle to curb.

(a) The city engineer is authorized to issue special permits to allow 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 in this section.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

(Code 1988, § 355.040; Code 1996, § 350.040; Code 2005, § 86-315; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.430.

Sec. 86-316. Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between one-half hour after sunset and one-half hour before sunrise and if 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 one-half hour after sunset and one-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 such lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closer to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(Code 1988, § 355.050; Code 1996, § 350.050; Code 2005, § 86-316; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.435.

Sec. 86-317. Vehicles to park within parking lines

Where painted lines are used on pavement to indicate parking spaces, vehicles must be parked between lines.

(Code 1988, § 355.060; Code 1996, § 350.060; Code 2005, § 86-317; Ord. No. 93-73, § 6(o), 8-9-1993)

Secs. 86-318—86-340. Reserved.

DIVISION 2. PROHIBITED IN SPECIFIED PLACES

Sec. 86-341. General prohibitions.

(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 city engineer 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 any designated and posted fire lane.

k. In a permitted parking area without a permit or placard.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:

a. In front of a public or private driveway.

b. Within 15 feet of a fire hydrant.

c. Within 20 feet of a crosswalk at an intersection.

d. Within 30 feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway.

e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly signposted).

f. Within ten feet in each direction from any mailbox used for rural delivery.

g. 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 or markings prohibit parking.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(Code 1988, § 360.010; Code 1996, § 355.010; Code 2005, § 86-341; Ord. No. 99-025, § 5, 2-8-1999)

State law reference—Similar provisions, RSMo 300.440.

Sec. 86-342. Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in any manner or under such conditions as to leave available less than ten feet of width of the roadway for free movement of vehicular traffic; however, this section shall not apply to any highway included in subsection 86-40(c).

(Code 1988, § 360.020; Code 1996, § 355.020; Code 2005, § 86-342; Ord. No. 393, § 8, 5-25-1970)

State law reference—Similar provisions, RSMo 300.445.

Sec. 86-343. Parking on state-maintained highways.

No person shall park any vehicle on state-maintained highways in such a manner or under such conditions as to leave available less than 24 feet of width of roadway for free movement of vehicular traffic, nor shall any ordinance passed by the city allow parking which leaves available less than 24 feet of width of roadway on any highway as defined in subsection 86-40(c); however, in certain areas the minimum as set out in this section may be increased and incorporated by ordinance.

(Code 1988, § 360.030; Code 1996, § 355.030; Code 2005, § 86-343; Ord. No. 393, § 9.1, 5-25-1970; Ord. No. 93-73, § 5, 8-9-1993)

State law reference—Parking not to obstruct traffic, RSMo 300.445.

Sec. 86-344. 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.

(Code 1988, § 360.040; Code 1996, § 355.040; Code 2005, § 86-344; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.450.

Sec. 86-345. Parking for certain purposes prohibited.

No person shall park any type of vehicle, including, but not limited to, a trailer, boat, camper, RV, etc., on any highway, street or alley in the city for the purpose of displaying such vehicle for sale or for repairing such vehicle unless repairs are necessitated by an emergency mechanical failure.

(Code 1988, § 360.050; Code 1996, § 355.050; Code 2005, § 86-345; Ord. No. 393, § 1, 5-25-1970; Ord. No. 93-73, § 6(n), 8-9-1993)

State law reference—Similar provisions, RSMo 300.455.

Sec. 86-346. Parking adjacent to schools or churches.

(a) The city engineer is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school, or church property or public building, 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 or church property or public building, as authorized in this section, no person shall park a vehicle in any such designated place.

(Code 1988, § 360.060; Code 1996, § 355.060; Code 2005, § 86-346; Ord. No. 273, § 28, 8-13-1956)

State law reference—Similar provisions, RSMo 300.460.

Sec. 86-347. Parking prohibited on narrow streets.

(a) The city engineer is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed

20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(b) When official signs prohibiting parking are erected upon narrow streets as authorized in this section, no person shall park a vehicle upon any such street in violation of any such sign.

(Code 1988, § 360.070; Code 1996, § 355.070; Code 2005, § 86-347; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.465.

Sec. 86-348. Standing or parking on lefthand side of one-way street.

The city engineer is authorized to erect signs upon the lefthand 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 lefthand side in violation of any such sign.

(Code 1988, § 360.080; Code 1996, § 355.080; Code 2005, § 86-348; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.470.

Sec. 86-349. Standing or parking on divided roadways.

If 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 lefthand side of such one-way roadway unless signs are erected to permit such standing or parking. The city engineer is authorized to determine when standing or parking may be permitted upon the lefthand side of any such one-way roadway and to erect signs giving notice thereof.

(Code 1988, § 360.090; Code 1996, § 355.090; Code 2005, § 86-349; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.475.

Sec. 86-350. Stopping, standing or parking near hazardous or congested places.

(a) The city engineer is hereby authorized to determine and designate by proper signs places not exceeding 100 feet in length in which the

stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized in this section, no person shall stop, stand, or park a vehicle in any such designated place.

(Code 1988, § 360.100; Code 1996, § 355.100; Code 2005, § 86-350; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.480.

Sec. 86-351. Parking of certain vehicles prohibited in residential areas.

(a) No truck rated larger than three-fourths ton (manufacturer's rated capacity), no mobile home, no pickup camper, no camping trailer, no boat, no self-contained motorized home, and no trailer shall be permitted to be parked on any public street in a residential district.

(b) This section shall not be construed to prohibit the parking of any vehicles named in subsection (a) of this section, temporarily, for loading and unloading purposes.

(Code 1988, § 360.110; Code 1996, § 355.110; Code 2005, § 86-351; Ord. No. 430, §§ 1, 2, 3-12-1973; Ord. No. 2016-0193, § 2, 12-13-2016)

Sec. 86-352. Parking in space reserved for physically disabled persons.

(a) It shall be unlawful for any person to park or stand any vehicle in any stall or space designated or reserved for physically disabled persons, as defined in RSMo 301.142, as amended, upon public or private property open to public use, unless the vehicle bears the state license plate or placard for the disabled as provided for by law and regulation. The space shall be indicated by an upright sign whether on a pole or attached to a building and by painted marking upon the pavement upon which shall be 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.

The upright sign, or a second sign on the same pole, shall contain the following wording: "Fine \$50.00 to \$200.00."

(b) Any vehicle operator who is not physically disabled shall not use the handicapped parking space unless there is a physically disabled person in the vehicle, or while the vehicle is being used to transport a physically disabled person.

(c) Any person convicted of violating this section shall be subject to a fine of not less than \$50.00 nor more than \$200.00. Every day upon which such violation occurs shall constitute a separate offense.

(Code 1996, § 355.120; Code 2005, § 86-352; Ord. No. 2001-147, 11-13-2001)

State law references—Plates for disabled persons, etc., RSMo 301.142; violation of parking space reserved by municipality for disabled persons, RSMo 301.143.

Sec. 86-353. Parking of recreational motor vehicles; discard of waste prohibited.

(a) Any overnight parking of an occupied recreational motor vehicle shall be at an establishment designed for that purpose, and that offers the owner purpose-built receptacles or containers for sewage, litter, and waste.

(b) It shall be unlawful to remove to discard trash, paper waste, sewage waste, or other litter from a recreational motor vehicle onto private or public property except in receptacles or containers specifically designated for such waste, litter or sewage.

(c) It shall not be a violation of this section to park a recreational motor vehicle in the parking lot of a business establishment during the hours the business shall be open to the public provided such parking shall be related to the business of the on-premises establishment during the time it takes to complete that business.

(d) It shall not be a violation of this section to park a recreational motor vehicle upon areas specifically designated as camping areas with the facilities available for campers, and in designated parking spaces.

(e) It shall not be a violation of this section for a performer, entertainer or act performing at a theater to park their recreational motor vehicle or vehicles overnight on the property of the theater they are performing.

(Code 1988, § 360.140; Code 1996, § 355.130; Code 2005, § 86-353; Ord. No. 88-48, §§ 1—4, 4-25-1988; Ord. No. 2010-117, § 1, 10-26-2010; Ord. No. 2011-014, § 1, 1-11-2011; Ord. No. 2021-0070, § 2, 6-22-2021)

Sec. 86-354. Authority to establish additional regulations and exemptions; parking permits.

The board may establish other parking regulations from time to time, including, but not limited to, issuing city parking permits and, by sale of such authorized permits, exempt certain persons and/or vehicles from adhering to time limit parking restrictions and allow parking by permit in designated areas.

(1) Such parking exemptions and regulations shall be made available for persons as approved and authorized by the city and parking by permit shall be honored only in areas designated as such by the city.

(2) Such permit parking areas shall be clearly posted as such and vehicles in violation of this section shall be subject to all other regulations within this chapter.

(3) Certain parking areas, parcels, streets, etc., may be designated as both timed parking or permit parking.

(Code 1988, § 360.150; Code 1996, § 355.140; Code 2005, § 86-354; Ord. No. 93-73, § 2, 8-9-1993)

Sec. 86-355. Storing vehicle on city parking lot or other city property.

(a) Unless otherwise permitted, no person shall leave, store or otherwise abandon any boat, trailer, automobile or any other portable structure or vehicle, or parts/portions of trailers, boats, vehicles or any other portable structures, on city parking lots, streets, parks, or campgrounds, or on any other city property, without expressed

permission from the city engineer, police chief or other city official authorized by the city administrator to grant such permission.

(b) Use of city parking lots, streets, campgrounds and any other city property shall be only for the sole purpose as designed, designated and/or posted.

(Code 1988, § 360.160; Code 1996, § 355.150; Code 2005, § 86-355; Ord. No. 94-74, 6-27-1994)

Sec. 86-356. Parking in electric vehicle charging stations.

(a) Whenever authorized signs are erected designating an area for electric vehicle parking or charging, no person shall stop a vehicle within that marked area unless that vehicle is an electric vehicle and connected to an electric vehicle charging station.

(b) It shall be unlawful for any person to cause, allow, or suffer any vehicle registered in his name, that is not an electric vehicle connected to an electric vehicle charging station, to be parked or standing in a space that is designated as an area for electric vehicle parking or charging.

(c) The provisions of this section may be enforced on property that is not public property only when the owner or other person in possession or control of the property has requested enforcement of these provisions of this section.

(d) Any person convicted of violating this section shall be assessed a fine of not less than \$25.00 nor more than \$150.00 per occurrence.
(Ord. No. 2019-0108, § 2, 8-27-2019)

Secs. 86-357—86-370. Reserved.

DIVISION 3. PROHIBITED ON CERTAIN STREETS

Sec. 86-371. Applicability of parking restrictions.

The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times specified in this division or as indicated on official signs except when it is

necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device. (Code 1988, § 370.010; Code 1996, § 365.010; Code 2005, § 86-371; Ord. No. 393, § 1, 5-25-1970)

Sec. 86-372. Regulations not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

(Code 1988, § 370.020; Code 1996, § 365.020; Code 2005, § 86-372; Ord. No. 393, § 1, 5-25-1970)

Sec. 86-373. Parking prohibited at all times on certain streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described by ordinance.

(Code 1988, § 370.030; Code 1996, § 365.030; Code 2005, § 86-373; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.530.

Sec. 86-374. 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.

(Code 1988, § 370.040; Code 1996, § 365.040; Code 2005, § 86-374; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.535.

Sec. 86-375. Stopping, standing or parking prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall stop, stand, or park a vehicle between the hours specified by

ordinance of any day except Sundays and public holidays within the district or upon any of the streets described by ordinance.

(Code 1988, § 370.050; Code 1996, § 365.050; Code 2005, § 86-375; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.540.

Sec. 86-376. 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.

(Code 1996, § 365.055; Code 2005, § 86-376; Ord. No. 93-73, 8-9-1993; Ord. No. 2015-0155, § 2, 11-24-2015)

Sec. 86-377. Parking signs required.

Whenever by this chapter or any ordinance of the city any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the city engineer to erect appropriate signs giving notice thereof, and no such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense.

(Code 1988, § 370.060; Code 1996, § 365.060; Code 2005, § 86-377; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.545.

Secs. 86-378—86-400. Reserved.

DIVISION 4. LOADING OR UNLOADING

Sec. 86-401. Designation of curb loading zones.

The city engineer is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain ap-

propriate signs indicating such loading zones and stating the hours during which the provisions of this division are applicable.

(Code 1988, § 365.010; Code 1996, § 360.010; Code 2005, § 86-401; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.485.

Sec. 86-402. Permits for curb loading zones.

The city engineer shall not designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two signs to indicate the ends of each such zone. The city engineer may grant such a permit. Every such permit shall expire at the end of one year.

(Code 1988, § 365.020; Code 1996, § 360.020; Code 2005, § 86-402; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.490.

Sec. 86-403. Standing in passenger curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes.

(Code 1988, § 365.030; Code 1996, § 360.030; Code 2005, § 86-403; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.495.

Sec. 86-404. Standing in freight curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.

(Code 1988, § 365.040; Code 1996, § 360.040; Code 2005, § 86-404; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.500.

Sec. 86-405. Designation of public carrier stops and stands.

The city engineer is hereby authorized and required to establish bus stops, bus stands, taxi-

cab 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.

(Code 1988, § 365.050; Code 1996, § 360.050; Code 2005, § 86-405; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.505.

Sec. 86-406. Stopping, standing and parking of buses and taxicabs.

(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 in this division.

(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 in this division, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided in this division. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Code 1988, § 365.060; Code 1996, § 360.060; Code 2005, § 86-406; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.510.

Sec. 86-407. Restricted use of bus and taxicab stands.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Code 1988, § 365.070; Code 1996, § 360.070; Code 2005, § 86-407; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.515.

Secs. 86-408—86-430. Reserved.**ARTICLE VI. TRAFFIC CONTROL SIGNS, SIGNALS AND DEVICES****Sec. 86-431. Authority to install traffic control devices.**

The city engineer shall place and maintain traffic control signs, signals, and devices when and as required under the traffic ordinances of the city to make effective the provisions of such ordinances, and may place and maintain such additional traffic control devices as he may deem necessary to regulate traffic under the traffic ordinances of the city or under state law or to guide or warn traffic.

(Code 1988, § 315.010; Code 1996, § 315.010; Code 2005, § 86-431; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.130.

Sec. 86-432. 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 highways and transportation commission or resolution adopted by the board. All signs or signals required under this chapter for a particular purpose, so far as practicable, shall be uniform as to type and location throughout the city. All traffic control devices so

erected and not inconsistent with the provisions of this chapter shall be official traffic control devices.

(Code 1988, § 315.020; Code 1996, § 315.020; Code 2005, § 86-432; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.135.

Sec. 86-433. Obedience to traffic control devices.

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 chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(Code 1988, § 315.030; Code 1996, § 315.030; Code 2005, § 86-433; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.140.

Sec. 86-434. Official traffic control devices required for enforcement of certain regulations.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(Code 1988, § 315.040; Code 1996, § 315.040; Code 2005, § 86-434; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.145.

Sec. 86-435. Presumption of legality.

(a) Whenever official traffic control devices are placed in a position approximately conforming to the requirements of this chapter, 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 chapter and purporting to conform to the lawful requirements

pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(Code 1988, § 315.050; Code 1996, § 315.050; Code 2005, § 86-435; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.150.

Sec. 86-436. 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 such 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 86-437, 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 86-437, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) *Steady red indication.*

- a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until a green indication is shown, except as provided in subsection (3)b of this section.
- b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highways and transportation commission with reference to an intersection involving a state highway, and the city with reference to an intersection involving other highways under its jurisdiction, may prohibit any such

right turn against a red signal at any intersection where safety conditions so require, and such prohibition shall be effective when a sign is erected at such intersection giving notice thereof.

- c. Unless otherwise directed by a pedestrian control signal as provided in section 86-437, pedestrians facing a steady red signal alone shall not enter the roadway.
- (4) *Signals at place other than intersection.* If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable, except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(Code 1988, § 315.060; Code 1996, § 315.060; Code 2005, § 86-436; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.155.

Sec. 86-437. Pedestrian control signals.

Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk," or appropriate symbols, 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.

(Code 1988, § 315.070; Code 1996, § 315.070; Code 2005, § 86-437; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.160.

Sec. 86-438. Flashing signals.

(a) *Obedience to signals.* Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

- (1) *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) *Applicability to railroad crossings.* 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 86-219.

(Code 1988, § 315.080; Code 1996, § 315.080; Code 2005, § 86-438; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.165.

Sec. 86-439. Lane direction control signals.

When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

(Code 1988, § 315.090; Code 1996, § 315.090; Code 2005, § 86-439; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.170.

Sec. 86-440. Display of unauthorized signs, signals or markings.

No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device 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.

(Code 1988, § 315.100; Code 1996, § 315.100; Code 2005, § 86-440; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.175.

Sec. 86-441. 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.

(Code 1988, § 315.110; Code 1996, § 315.110; Code 2005, § 86-441; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.180.

Sec. 86-442. Authority to establish play streets.

The city 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 play street.

(Code 1988, § 315.120; Code 1996, § 315.120; Code 2005, § 86-442; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.185.

Sec. 86-443. Operation of vehicles on 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 business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code 1988, § 315.130; Code 1996, § 315.130; Code 2005, § 86-443; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.190.

Sec. 86-444. Authority to designate crosswalks and establish safety zones.

The city engineer is hereby authorized:

- (1) To designate and maintain, by appropriate devices, marks, or lines upon the

surface of the roadway, crosswalks at intersections where, in 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.

(Code 1988, § 315.140; Code 1996, § 315.140; Code 2005, § 86-444; Ord. No. 393, § 1, 5-25-1970)

State law reference—Similar provisions, RSMo 300.195.

Sec. 86-445. Traffic lanes.

(a) The city engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(b) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(Code 1988, § 315.150; Code 1996, § 315.150; Code 2005, § 86-445; Ord. No. 648, § 1, 5-14-1984)

State law reference—Similar provisions, RSMo 300.200.

Sec. 86-446. Evasion of traffic control devices.

It is unlawful for the driver of a motor vehicle to drive off the roadway and onto or across any public or private property in order to evade any traffic control sign, signal or other traffic control device.

Secs. 86-447—86-470. Reserved.

ARTICLE VII. VEHICLE EQUIPMENT AND CONDITION

DIVISION 1. GENERALLY

Sec. 86-471. Miscellaneous equipment requirements.

(a) *Signaling devices.* Every motor vehicle shall be equipped with a horn, directed forward, or whistle in good working order, capable of emitting

a sound adequate in quantity and volume to give warning of the approach of such vehicle to other users of the highway and to pedestrians. Such signaling device shall be used for warning purposes only and shall not be used for making any unnecessary noise, and no other sound-producing signaling device shall be used at any time.

(b) *Mufflers; excessive noises.* Muffler cutouts shall not be used nor shall any person operate any vehicle in such manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device, or other parts, or by any improperly loaded cargo. The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noise as completely as is done in modern gas engine passenger motor vehicles. Any cutout or opening in the exhaust pipe between the motor and the muffler on any motor vehicle shall be completely closed and disconnected from its operating lever, and shall be so arranged that it cannot automatically open, or be opened or operated while such vehicle is in motion.

(c) *Brakes.* All motor vehicles, except motorcycles, shall be provided at all times with two sets of adequate brakes, kept in good working order, and motorcycles shall be provided with one set of adequate brakes kept in good working order.

(d) *Mirrors.* All motor vehicles which are so constructed or loaded that the operator cannot see the road behind such vehicle by looking back or around the side of such vehicle shall be equipped with a mirror so adjusted as to reveal the road behind and be visible from the operator's seat.

(e) *Projections on vehicles.* All vehicles carrying poles or other objects, which project more than five feet from the rear of such vehicle, shall, during the period when lights are required by this article, carry a red light at or near the rear end of the pole or other object so projecting. At other times a red flag or cloth, not less than 16 inches square, shall be displayed at the end of such projection.

(f) *Towlines.* When one vehicle is towing another, the connecting device shall not exceed 15 feet. During the time that lights are required by

RSMo 307.020—307.120, the required lights shall be displayed by both vehicles. Every towed vehicle shall be coupled to the towing vehicle by means of a safety chain, cable, or equivalent device in addition to the primary coupling device, except that such secondary coupling device shall not be necessary if the connecting device is connected to the towing vehicle by a center-locking ball located over or nearly over the rear axle and not supported by the rear bumper of the towing vehicle. Such secondary safety connecting devices shall be of sufficient strength to control the towed vehicle in the event of failure of the primary coupling device. The provisions of this subsection shall not apply to wreckers towing vehicles or to vehicles secured to the towing vehicle by a fifth-wheel type connection. The provisions of this subsection shall also not apply to farm implements, or to any vehicle which is not required to be registered.

(g) *Commercial motor vehicles and trailers.* Commercial motor vehicles and trailers, when being operated on any highway, street or road of this city, shall be equipped with adequate and proper brakes, lighting equipment, signaling devices, steering mechanisms, horns, mirrors, windshield wipers, tires, wheels, exhaust system, glazing, air pollution control devices, fuel tank, and any other safety equipment required by the state in such condition so as to obtain a certificate of inspection and approval as required by the provisions of RSMo 307.360.

(h) *Devices for transporting hay.* Devices attached to or towed by motor vehicles for the purpose of transporting hay shall have the protruding parts raised or retracted when not in use to a position which will not cause injury or damage to persons or property in the vicinity of such device when on the highways, streets or roads of this city.

(i) *Golf carts, utility vehicles, etc.* No person shall operate or knowingly ride in any motor vehicle upon city streets which is not equipped with operable and adequate headlights, taillights, other required lights, mirrors, brakes, safety glass,

horns or other warning devices or reflectors as required by RSMo 307.010, for the equipping or operation of such motor vehicles.

(Code 1988, § 350.010; Code 1996, § 375.050; Code 2005, § 86-471; Ord. No. 2001-029, 3-26-2001)

State law reference—Similar provisions, RSMo 307.170.

Sec. 86-472. Securing of loads.

All motor vehicles and every trailer and semi-trailer operating upon the highways, streets or roads of this city 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.

(Code 1988, § 350.010; Code 1996, § 375.060; Code 2005, § 86-472)

State law reference—Similar provisions, RSMo 307.010.

Sec. 86-473. Vehicles hauling cargo with offensive odor.

It shall be unlawful for any person driving a motor vehicle carrying livestock, garbage, carion, fecal matter, or any odoriferous cargo, which may be declared a public nuisance detrimental to public health and welfare, to park such vehicle within 200 feet of any residence or business establishment (except for loading or unloading purposes and then not exceeding 30 minutes) at any area or place in the city. It shall further be unlawful to park such motor vehicle, empty, which has been hauling or contains such described odoriferous matter which may likewise be classed as a nuisance, within 200 feet of any residence or business establishment in the city until the vehicle has been thoroughly cleaned and disinfected according to the orders of health officials.

(Code 1988, § 350.040; Code 1996, § 375.070; Code 2005, § 86-473; Ord. No. 273, § 37, 8-13-1956)

Sec. 86-474. Equipment requirements for transport of dead animals.

All vehicles and substations used in the transportation or holding of the bodies of dead animals,

under the provisions of this article, shall have a tank or metal lining in the bed of such vehicle or substation, or be otherwise so constructed that the vehicle or substation shall be practically watertight, so that no drippings or seepage from such dead bodies shall escape from such vehicles while engaged in such transportation or holding; and every such vehicle shall have a bed of such depth and type of construction and equipment that any dead bodies therein shall be completely hidden from view of persons using the highways and any public nuisance obviated while being transported or held.

(Code 1996, § 375.080; Code 2005, § 86-474)

Sec. 86-475. Permit for transport of dead animals.

No person, except one holding a permit to transport the bodies of dead animals on highways of this city, or who is acting for such permittee, or who is otherwise excepted by the provisions of this article, shall transport on the highways or public roads of this city the bodies of dead animals without first obtaining a permit for that purpose. The state veterinarian shall keep a record of all applications for permits, showing all permits issued, denied, revoked, or otherwise disciplined by him, and such other facts as he may prescribe.

(Code 1996, § 375.090; Code 2005, § 86-475)

Sec. 86-476. Weight restrictions.

(a) No vehicle or combination of vehicles shall be moved or operated on any highway, street or alley in this city having a greater weight than that described under RSMo 304.180.

(b) Whenever by reason of thawing of frost, or rains, or due to new construction, the roads are in a soft condition, the maximum weights on all vehicles mentioned in RSMo 304.180, including trucks, tractors, trailers and semitrailers and other vehicles therein mentioned, may be limited by the state highways and transportation commission to such an amount and in such manner as will preserve the road under such conditions; and the state highway and transportation commission shall give due notice thereof by posting notices at

convenient and public places along such roads or parts thereof which are subject to such regulations and reduction of weights.

(c) Any person violating any of the provisions, regulations or regulations of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the provisions of RSMo 304.240, and the same rates of punishment shall apply where weights are limited in excess of those posted as apply to those exceeded under RSMo 304.180.

(Code 1988, § 350.060; Code 1996, § 375.100; Code 2005, § 86-476; Ord. No. 273, § 4, 8-13-1956)

State law reference—Similar provisions, RSMo 304.210.

Sec. 86-477. Vision-reducing material applied to windshield or windows.

(a) Except as provided in subsection (b) of this section, no person shall operate any motor vehicle registered in this state on any highway or street of this city with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings, or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in RSMo 700.010, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

(b) A permit to operate a motor vehicle with a front sidewing vent or window that has a sun screening device, in conjunction with safety glazing material, that has a light transmission of 35 percent or more plus or minus three percent and a luminous reflectance of 35 percent or less plus or minus three percent may be issued by the state department of public safety to a person having a physical disorder requiring the use of such vision-reducing material. If according to the permittee's physician the physical disorder requires the use of a sun screening device which permits less light

transmission and luminous reflectance than allowed under the requirements of this subsection, the limits of this subsection may be altered for that permittee in accordance with the physician's prescription. The state department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by immediate family members who are husband, wife and sons or daughters who reside in the household.

(Code 1996, § 375.110; Code 2005, § 86-477)

State law reference—Specifications for sun screening device applied to windshield or windows, RSMo 307.173.

Secs. 86-478—86-500. Reserved.

DIVISION 2. LIGHTS

Sec. 86-501. Generally.

No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway during the times when lighted lamps are required unless such vehicle or combination of vehicles displays lighted lamps and illuminating devices as under the provisions of RSMo 307.020—307.127. No person shall use on any vehicle any approved electric lamp or similar device unless the light source of such lamp or device complies with the conditions of approval as to focus and rated candlepower.

(Code 1996, § 375.010; Code 2005, § 86-501)

State law reference—Similar provisions, RSMo 307.040.

Sec. 86-502. Limitation on total of lamps lighted at one time.

At the times when lighted lamps are required, at least two lighted lamps shall be displayed, one on each side of the front of every motor vehicle, except a motorcycle and except a motor-drawn vehicle, except when such vehicle is parked subject to the provisions governing lights on parked vehicles. Whenever a motor vehicle equipped with headlamps, as required in this division, is also equipped with any auxiliary lamps or a spotlamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300

candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway. (Code 1996, § 375.020; Code 2005, § 86-502)

State law reference—Similar provisions, RSMo 307.105.

Sec. 86-503. Taillamps; reflectors.

(a) Every motor vehicle and every motor-driven vehicle shall be equipped with at least two rear lamps, not less than 15 inches or more than 72 inches above the ground upon which the vehicle stands, which when lighted will exhibit a red light plainly visible from a distance of 500 feet to the rear. Either such rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration marker and render it clearly legible from a distance of 50 feet to the rear. When the rear registration marker is illuminated by an electric lamp other than the required rear lamps, all such lamps shall be turned on or off only by the same control switch at all times.

(b) Every motorcycle registered in this state, when operated on a highway, shall also carry at the rear, either as part of the rear lamp or separately, at least one approved red reflector, which shall be of such size and characteristics and so maintained as to be visible during the times when lighted lamps are required from all distances within 300 feet to 50 feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps.

(c) Every new passenger car, new commercial motor vehicle, motor-driven vehicle and omnibus with a capacity of more than six passengers registered in this state after January 1, 1966, when operated on a highway, shall also carry at the rear at least two approved red reflectors, at least one at each side, so designed, mounted on the vehicle and maintained as to be visible during the times when lighted lamps are required from all distances within 500 to 50 feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps. Every such reflector shall meet the requirements of RSMo ch. 307, and shall be mounted upon the vehicle at a height not to exceed 60 inches or less than 15 inches above the surface upon which the vehicle stands.

(d) Any person who knowingly operates a motor vehicle without the lamps required in this section in operable condition is in violation of this section. (Code 1996, § 375.030; Code 2005, § 86-503)

State law reference—Similar provisions, RSMo 307.075.

Sec. 86-504. Dimming of lights.

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.

(Code 1996, § 375.040; Code 2005, § 86-504)

State law reference—Similar provisions, RSMo 307.070.

Secs. 86-505—86-520. Reserved.

DIVISION 3. SEAT BELTS

Sec. 86-521. Seat belts required.

(a) *Safety belt use and compliance.* Each driver, except persons employed by the federal 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 city, 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 city, shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that a child shall be protected as required in section 86-522. 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. The provisions of this subsection shall not apply to the transporting of children under 16 years of age, as provided in RSMo 307.179 and section 86-522.

(b) *Transporting children.* Each driver of a motor vehicle transporting a child less than 16 years of age, shall secure the child in a properly adjusted and fastened safety belt, child passenger restraint system or booster seat as required in section 86-522.

(c) *Violation and penalty.* A fine not to exceed \$10.00 may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section.

(d) *Multiple passengers.* If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the persons unable to wear seat belts shall sit in the area behind the front seat unless the vehicle is designed only for a front-seated area where those passengers are not in violation of this section.

(Code 1988, § 340.250; Code 1996, § 375.120; Code 2005, § 86-521; Ord. No. 97-066, § 1, 12-8-1997; Ord. No. 2006-123, § 1, 8-28-2006; Ord. No. 2018-0029, § 2, 4-10-2018)

State law reference—Similar provisions, RSMo 307.178.

Sec. 86-522. Passenger restraint system required for children.

(a) Every driver transporting a child under the age of 16 years shall be responsible, when transporting such child in a motor vehicle operated by that driver on the streets or highways of this state, 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.

(b) Any person who violates this section, upon conviction, may be punished by a fine of not more than \$50.00 and court costs. Charges for violating this section shall be dismissed if the person charged

with the violation provides evidence that he acquired a child passenger restraint system or booster seat prior to or at his court date.

(c) The provisions of this section shall not apply to any public carrier for hire or 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.

(Code 1996, § 375.130; Code 2005, § 86-522; Ord. No. 2006-124, § 1, 8-28-2006)

State law reference—Similar provisions, RSMo 307.179.

Secs. 86-523—86-550. Reserved.

ARTICLE VIII. LICENSES

Sec. 86-551. Driving while license suspended, revoked or cancelled.

(a) It shall be unlawful for any person to drive a vehicle in this city when his privilege to do so has been suspended.

(b) It shall be unlawful for any person to drive a vehicle in this city when his privilege to do so has been revoked.

(c) It shall be unlawful for any person to drive a vehicle in this city when his privilege to do so has been cancelled.

(Code 1996, § 380.010; Code 2005, § 86-551; Ord. No. 99-025, § 6, 2-8-1999)

State law reference—Driving while license revoked, RSMo 302.321.

Sec. 86-552. Operation of motor vehicle without proper license.

(a) Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 86-554, to:

(1) Operate any vehicle upon any highway in this city unless he has a valid license.

(2) Operate a motorcycle or motortricycle upon any highway of this city unless such person has a valid license that shows he has successfully passed an examination for the operation of a motorcycle or

motortricycle as prescribed by the state director of revenue. The state director of revenue may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by RSMo 302.173, is conducted on such vehicle.

- (3) Authorize or knowingly permit a motorcycle or motortricycle owned by him or under his control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor.
 - (4) Operate a motor vehicle with an instruction permit or license issued to another person.
 - (5) Refuse to write his name and address in the presence of a police officer, court official or any other duly authorized person, in order that identity of the licensee may be determined.
- (b) Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in RSMo 302.700 et seq. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of RSMo 302.700 et seq., except for the driving test.
- (Code 1996, § 380.020; Code 2005, § 86-552)

State law reference—Similar provisions, RSMo 302.020, 302.700 et seq.

Sec. 86-553. Prohibited uses of license; exhibition of license.

It shall be unlawful for any person to:

- (1) Display or to permit to be displayed, or to have in his possession, any license knowing the license to be fictitious or to have been canceled, suspended, revoked, disqualified or altered.
- (2) Lend to or knowingly permit the use of by another any license issued to the person so lending or permitting the use thereof.
- (3) Display or to represent as one's own any license not issued to the person so displaying the license.
- (4) Fail or refuse to surrender to the clerk of any division of the circuit court, or the state director of revenue, any license which has been suspended, cancelled, disqualified or revoked, as provided by law.
- (5) Use a false or fictitious name or give a false or fictitious address on any application for a license, or any renewal or duplicate thereof, or knowingly to make a false statement.
- (6) Knowingly conceal a material fact, or otherwise commit a fraud in any such application.
- (7) Authorize or consent to any motor vehicle owned by him or under his control to be driven by any person, when he has knowledge that such person has no legal right to do so, or for any person to drive any motor vehicle in violation of any of the provisions of RSMo 302.010 et seq.
- (8) Employ a person to operate a motor vehicle in the transportation of persons or property, with knowledge that such person has not complied with the provisions of RSMo 302.010 et seq., or whose license has been revoked, suspended, cancelled or disqualified, or who fails to produce his license upon demand of any person or persons authorized to make such demand.
- (9) Operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license.

- (10) Fail to carry his instruction permit, operator's license or chauffeur's license while operating a vehicle and to display the instruction permit or the license upon demand of any police officer, court official or any other duly authorized person for inspection, when demand is made therefor. Failure to exhibit his instruction permit or license as aforesaid shall be presumptive evidence that such person is not a duly licensed operator or chauffeur.

(Code 1996, § 380.030; Code 2005, § 86-553)
State law reference—Similar provisions, RSMo 302.220.

Sec. 86-554. Exemptions.

The following persons are exempt from license requirements under this division:

- (1) Any person while operating any farm tractor or implement of husbandry temporarily operated or moved on a highway.
- (2) A nonresident who is at least 16 years of age and who has in his immediate possession a valid license issued to him in his home state or country.
- (3) A nonresident who is at least 18 years of age and who has in his immediate possession a valid license issued to him in his home state or country which allows such person to operate a motor vehicle in the transportation of persons or property as classified in RSMo 302.015.
- (4) Convicted offenders of the state department of corrections who have not been convicted of a motor vehicle felony as follows—driving while intoxicated, failing to stop after an accident and disclose his identity, or driving a motor vehicle without the owner's consent—may operate state-owned trucks for the benefit of the correctional facilities, provided that such offender shall be accompanied by a correctional officer or other staff person in such truck.

(Code 1996, § 380.040; Code 2005, § 86-554)
State law reference—Similar provisions, RSMo 302.080.

Sec. 86-555. State vehicle license plates required.

No person shall operate or park any motor vehicle or trailer upon any street or highway of this city unless such motor vehicle or trailer has properly displayed a valid license plate or temporary permit issued to the lawful owner of the vehicle by the department of revenue of the state, except that any person who is a nonresident of the state may operate or park any motor vehicle or trailer upon any street or highway of this city, provided the motor vehicle or trailer has been duly registered for the current year in the state, country, or other place of which the owner is a resident, provided that at all times such motor vehicle or trailer is being operated or parked upon the streets or highways of this city the valid license plate or temporary permit is properly displayed on such vehicle or trailer. Upon the sale of a motor vehicle or trailer by a dealer, a buyer who has made application for registration, by mail or otherwise, may operate the motor vehicle or trailer for a period of 30 days after taking possession thereof, if during such period the motor vehicle or trailer shall have attached thereto, in the manner required by RSMo 301.130, number plates issued to the dealer.

(Code 1996, § 380.050; Code 2005, § 86-555; Ord. No. 2000-075, § 1, 4-24-2000)

Sec. 86-556. Method of displaying license plates.

No motor vehicle or trailer shall be operated on any highway of this city unless it shall have displayed thereon the license plate or set of license plates issued by the state director of revenue and authorized by RSMo 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles, except trucks, tractors, truck tractors or truck-tractors licensed in excess of 12,000 pounds on the front and rear of such vehicles not less than eight nor more than 48 inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motor scooters

shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on trucks, tractors, truck tractors or truck-tractors licensed in excess of 12,000 pounds shall be displayed on the front of such vehicles not less than eight nor more than 48 inches above the ground, with the letters and numbers thereon right side up. The license plate or plates authorized by RSMo 301.140, when properly attached, shall be *prima facie* evidence that the required fees have been paid.

(Code 1996, § 380.060; Code 2005, § 86-556)

Sec. 86-557. Unauthorized plates, tags, stickers or signs.

No person shall operate or park any motor vehicle or trailer on any street or highway of this city on which there is displayed a plate, tag, sticker, sign or placard bearing the words "license lost," "license applied for" or words of similar import, as a substitute for a valid license plate or temporary permit.

(Code 1996, § 380.070; Code 2005, § 86-557)

Sec. 86-558. License plates on vehicles displayed for sale.

No person shall show, exhibit, display or have in possession for the purpose of sale any motor vehicle bearing or displaying thereon any number or license plates, except those of the dealer or owner so displaying such motor vehicle; provided, however, that, where the motor vehicle is placed on consignment with a dealer by the owner thereof, there may be displayed a number or license plate issued to the owner thereof.

(Code 1996, § 380.080; Code 2005, § 86-558)

Sec. 86-559. Certificate of ownership required for registered vehicle.

It shall be unlawful for any person to operate in this city a motor vehicle or trailer registered as provided by law, unless a certificate of ownership shall have been issued.

(Code 1996, § 380.090; Code 2005, § 86-559)

Sec. 86-560. Transfer of certificate of ownership upon sale of vehicle.

It shall be unlawful for any person to buy or sell in this city any motor vehicle or trailer

registered under the laws of this state unless at the time of delivery thereof there shall pass between the parties a certificate of ownership with assignment thereof as provided in RSMo 301.210, and the sale of any motor vehicle or trailer registered under the laws of this state, without the assignment of such certificate of ownership, shall be fraudulent and void.

(Code 1996, § 380.100; Code 2005, § 86-560)

Sec. 86-561. Removal of plates on transfer of ownership of vehicle.

Upon the transfer of ownership of any motor vehicle or trailer, the certificate of registration and the right to use the number plates shall expire and the number plates shall be removed by the owner at the time of the transfer of possession, and it shall be unlawful for any person other than the person to whom such number plates were originally issued to have the number plates in his possession whether in use or not; except that the buyer of a motor vehicle or trailer who trades in a motor vehicle or trailer may attach the license plates from the traded-in motor vehicle or trailer to the newly purchased motor vehicle or trailer. The operation of a motor vehicle with such transferred plates shall be lawful for no more than 30 days.

(Code 1996, § 380.110; Code 2005, § 86-561)

Sec. 86-562. Sales by dealers.

(a) *Temporary number plates.* Upon the sale of a motor vehicle or trailer by a dealer, a buyer who has made application for registration, by mail or otherwise, may operate the motor vehicle or trailer for a period of 15 days after taking possession thereof, if during such period the motor vehicle or trailer shall have attached thereto, in the manner required in section 86-556, number plates issued to the dealer. Upon application and presentation of satisfactory evidence that the buyer has applied for registration, a dealer may furnish such number plates to the buyer for such temporary use. In such event, the dealer shall require the buyer to deposit the sum of \$10.50, to be returned to the buyer upon return to the dealer of such number plates within 15 days.

(b) *False representation by dealer that license plate is not required.* No dealer shall advise any purchaser of a motor vehicle or trailer that such purchaser may drive such a motor vehicle or trailer without compliance with the license requirements in subsection (a) of this section. (Code 1996, §§ 380.120, 380.130; Code 2005, § 86-562)

Sec. 86-563. Financial responsibility required.

(a) No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, upon the streets or the alleys of this city, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of vehicles owned by another person, however, no owner shall be in violation of this subsection if he fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The state director of revenue may prescribe rules and regulations for the implementation of this section.

(b) 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. 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 name 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 according to the RSMo 303.240.
- (3) A surety bond according to RSMo 303.230.

(c) 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 who lawfully stops such operator or investigates an accident while that officer is engaged in the performance of the officer's duties.

(d) Any person failing to exhibit an insurance identification card or other satisfactory evidence of insurance in lieu of such card upon the demand of any police officer pursuant to this section is guilty of a violation of this section. However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he met the financial responsibility requirements of this section at the time the police officer wrote the citation.

(Code 1996, § 380.140; Code 2005, § 86-563; Ord. No. 97-065, § 1, 12-8-1997; Ord. No. 2000-075, § 2, 4-24-2000)

State law reference—Duty to maintain financial responsibility, RSMo 303.025.

Secs. 86-564—86-591. Reserved.

ARTICLE IX. TOWING

Sec. 86-592. Abandoned vehicles prohibited.

No person shall abandon any motor vehicle on the right-of-way of any public road or state highway or on any private real property owned by another without his consent.

(Code 1996, § 385.020; Code 2005, § 86-592; Ord. No. 2000-085, § 1, 5-22-2000)

State law reference—Abandoned motor vehicles on public property, RSMo 304.155.

Sec. 86-593. Reserved.

Sec. 86-594. Obstructing flow of traffic prohibited.

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or state highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic.

(Code 1996, § 385.040; Code 2005, § 86-594; Ord. No. 2000-085, § 1, 5-22-2000)

State law reference—Similar prohibition, RSMo 304.156.

Sec. 86-595. Towing of vehicles or abandoned property on public property.

(a) Any police officer, or an official of the city where the city's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of any state highway or interstate highway or freeway left unattended for more than 48 hours, provided that commercial motor vehicles not hauling waste designated as hazardous under 49 USC 5103(a) may only be removed under this section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice.

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal.

(3) Any abandoned property which has been abandoned under RSMo 385.020 or RSMo 577.080.

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner.

(5) Any abandoned property for which the person operating such property is ar-

rested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal.

- (6) Any abandoned property which due to any other state law or city ordinance is subject to towing because of the owner's outstanding traffic or parking violations.
- (7) Any abandoned property left unattended in violation of a state law or city ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.
- (8) Any car or other vehicle which is illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicle, hinders or impairs street maintenance work, or interferes with the removal of snow or ice from the city streets, or impairs or endangers the safety of city street and work crews, or which interferes with the progress of any parade designated, permitted and authorized by the board.

(b) The city shall designate, with signs or notices posted 24 hours in advance, areas of planned maintenance work and street closures approved as special events, and warning for such routes shall indicate that parking is prohibited along such route or work area. Parking of any car or other vehicle on such designated route or work area is prohibited during the times posted by the police department. Any car or other vehicle that is parked on such designated route may be towed as provided in this section.

(c) It shall be the duty of the police officer before towing such vehicles to make a good faith effort to locate the owner of the vehicle and to give such owner or operator the opportunity to remove the vehicle prior to towing, however, in the event of emergency this requirement is not necessary.

(d) When a motor vehicle or other vehicle is abandoned on a city street 48 hours or more in violation of subsection (a)(1) of this section, its

removal may be authorized by order of the police chief or other police officer so designated, provided proper warning notices have been given or provided. Proper notice shall include, but not be limited to, the placement of a warning notice or uniform traffic ticket in a conspicuous place on such abandoned vehicle describing the violation and warning of the potential removal of vehicle.

(e) When the police department authorizes a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity, it shall complete a crime inquiry and inspection report. Any city agency other than the police department authorizing a tow under this section where property is towed away from the immediate vicinity shall report the tow to the police department within two hours of the tow, along with a crime inquiry and inspection report.

(f) If any vehicle is found upon a street, public lot or highway in violation of any section of this chapter, and the identity of the operator cannot be determined, the owner or person in whose name such vehicle is registered shall be held *prima facie* responsible for such violation.

(Code 1996, § 385.050; Code 2005, § 86-595; Ord. No. 2000-085, § 1, 5-22-2000)

State law reference—Similar provisions, RSMo 304.156.

Sec. 86-596. Reserved.

Sec. 86-597. General provisions and procedures; reclaiming towed vehicle.

(a) The owner of abandoned property removed as provided in this article shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 86-598.

(b) The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

(c) If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the repossession shall notify the

police department within two hours of the repossession and shall further provide the police department with any additional information the police department deems appropriate.

(d) Any towing company which comes into possession of abandoned property pursuant to this article and which claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon as disclosed by the records of the state department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten business days of the date of mailing indicated on the notice sent by the state department of revenue.

(e) If the state department of revenue notifies the towing company that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents were found and a good faith effort has been made.

(f) Notice as to the removal of any abandoned property pursuant to this article shall be made in writing within five working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:

- (1) The public agency authorizing the removal; or
- (2) The towing company, where authorization was made by an owner or lessee of real property.

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this section shall include the amount of mileage, if available, shown on the abandoned property at the time of removal.

(Code 1996, § 385.070; Code 2005, § 86-597; Ord. No. 2000-085, § 1, 5-22-2000)

State law references—Similar provisions, RSMo 304.156; notice to owner, RSMo 304.158.

Sec. 86-598. Maximum charges.

For the purposes of this section, the "tow rotation" shall mean the list of tow companies or operators kept by the city police department used for towing motor vehicles that are broken down, wrecked, abandoned, or are towed at the request of the police department, fire department, or other emergency responders.

A towing company or operator who wishes to be on the tow rotation may only assess reasonable storage, tow, hookup, and vehicle retrieval or release charges for vehicles towed at the request of police, fire, or other emergency responders. Such reasonable charges shall not exceed the \$75.00 for a hook up fee, \$50.00 for towing of less than ten miles, \$4.00 per mile over ten miles, \$30.00 per day for storage or impound fees, and \$100.00 for vehicle retrieval or release fees. These amounts will be reviewed by the police chief or their designee every three years from the enactment of this section. The police chief or their designee should take into account the Consumer Price Index and any economic changes in the city when reviewing these maximum charges. If the police chief or their designee finds that the maximum charges listed herein should be increased, he/she shall submit a report to the board of aldermen recommending what charges should be increased, the recommended amount the charges should be set at, and a statement giving the reasons for the recommended changes. The board, at its next regular meeting, shall consider the recommendations and vote on any increases to the maximum towing charges. Reasonable charges may be assessed only for the time in which the towing company complies with the procedural requirements of this article.

(Code 1996, § 385.080; Code 2005, § 86-598; Ord. No. 2000-085, § 1, 5-22-2000; Ord. No. 2024-0006, § 2, 1-23-2024)

Secs. 86-599—86-620. Reserved.

ARTICLE X. SCHEDULES

Sec. 86-621. Schedule I—Stop signs.

In accordance with section 86-214 and when signs are erected giving notice thereof, traffic at

the intersections listed in this section shall be required to stop as specified in this section before driving onto or across any street within the city upon which any state or federal highway is routed.

- | | |
|--------------------------------|---|
| Second northbound at Adams. | Fourth northbound at Main. |
| Second northbound at College. | Fourth northbound at Pacific. |
| Second northbound at Hensley. | Fourth southbound at Adams. |
| Second northbound at Long. | Fourth southbound at Atlantic. |
| Second northbound at Price. | Fourth southbound at College. |
| Second southbound at Adams. | Fourth southbound at Maddux. |
| Second southbound at College. | Fourth southbound at Main. |
| Second southbound at Hensley. | Fourth southbound at Pacific. |
| Second southbound at Long. | Fifth eastbound at Long. |
| Second southbound at Price. | Fifth northbound at Atlantic. |
| Third northbound at Adams. | Fifth northbound at Brown. |
| Third northbound at Atlantic. | Fifth northbound at Maddux. |
| Third northbound at College. | Fifth northbound at Main. |
| Third northbound at Ellison. | Fifth northbound at Pacific. |
| Third northbound at Hensley. | Fifth southbound at Brown. |
| Third northbound at Long. | Fifth southbound at College. |
| Third northbound at Maddux. | Fifth southbound at Hensley. |
| Third northbound at Main. | Fifth southbound at Main. |
| Third northbound at Oklahoma. | Fifth southbound at Pacific. |
| Third northbound at Pacific. | Sixth northbound at Atlantic. |
| Third southbound at Adams. | Sixth northbound at Brown. |
| Third southbound at Atlantic. | Sixth northbound at College. |
| Third southbound at College. | Sixth northbound at Main. |
| Third southbound at Hensley. | Sixth southbound at College. |
| Third southbound at Long. | Sixth southbound at Ellison. |
| Third southbound at Maddux. | Sixth southbound at Main. |
| Third southbound at Main. | Aaron eastbound at 165 Highway. |
| Third southbound at Pacific. | Adams eastbound at Business 65 Highway. |
| Fourth northbound at Adams. | Adams eastbound at Second. |
| Fourth northbound at Atlantic. | Adams westbound at Second. |
| Fourth northbound at College. | Arlene Street southbound at Schaefer Drive. |
| Fourth northbound at Maddux. | Ash eastbound at Lakewood. |
| | Atlantic eastbound at Commercial. |
| | Atlantic eastbound at Veterans Boulevard. |
| | Atlantic westbound at Commercial. |

- Atlantic westbound at Roark Avenue.
Atlantic westbound at Veterans Boulevard.
Austin Avenue southbound at State Highway 165.
Barkley eastbound at Dalton.
Barkley westbound at Walker.
Baylor Lane eastbound at Skyview Drive.
Baylor Lane westbound at Skyview Drive.
Berry eastbound at Westwood.
Berry westbound at Fall Creek Road.
Berry westbound at Westwood.
Berry Drive southbound at Fall Creek Road.
Big Sky Drive northbound at Lopez Loop.
Big Sky Drive southbound at Lopez Loop.
Bird eastbound at 65 Outer Road.
Blackner northbound at West Main.
Blue Meadows southbound at Fall Creek Road.
Boren westbound at Third.
Boswell eastbound at Truman.
Boswell westbound at Dr. Good.
Boxcar Willie Drive northbound at Branson Landing Boulevard.
Bramble southbound at Fall Creek Road.
Bramble westbound at Blue Meadows.
Branson Commerce Court southbound at Branson Commerce Parkway.
Branson Commerce Loop northbound at Branson Commerce Parkway.
Branson Hills Parkway at 248 Highway.
Branson Meadows eastbound at Gretna.
Branson Meadows northbound at Expressway Lane.
Branson Meadows westbound at Gretna.
Briarcliff eastbound at South.
Brook Court westbound at Bird.
Brown eastbound at Fifth.
Brown eastbound at Long.
Brown westbound at Fifth.
Cahill southbound at Skaggs.
Canal northbound at Cliff.
Cantwell eastbound at Roark Avenue.
Cantwell westbound at Michel.
Cardinal northbound at Branson Meadows.
Cardinal northbound at Town and Country Drive.
Cardinal southbound at Town and Country Drive.
Caudill Way westbound at Fall Creek.
Cedar eastbound at Judy.
Cedar westbound at 165 Highway.
Celtic eastbound at Caudill Way.
Celtic westbound at Fall Creek.
Champaign eastbound at 165 Highway.
Champaign southbound at 165 Highway.
Chiefs Court westbound at Highway 248
Chippewa eastbound at Vaughn.
Christopher westbound at Canal.
Cliff eastbound at Hawthorne.
Cliff eastbound at Sunshine.
Cliff northbound at Pocahontas.
Cliff southbound at Cliff.
Cliff southbound at Pocahontas.
Cliff southbound at Stanley.
Cliff westbound at Hawthorne.
Cliff westbound at Sunshine.
College eastbound at Commercial.
College eastbound at Sycamore.
College westbound at Commercial.
College Street eastbound at Sunshine.
Colonial eastbound at Truman.
Columbus Trail southbound at Garner.
Commerce Way northbound at Buena Vista Road.

Commerce Way southbound at Branson Commerce Parkway.	East End (southern portion) westbound at South.
Commercial northbound at College.	Eden Way eastbound at Skyview Drive.
Commercial northbound at Atlantic.	Eden Way westbound at Skyview Drive.
Commercial northbound at Main.	Eiserman northbound at Compton.
Commercial northbound at Pacific.	Eiserman southbound at Parnell.
Commercial southbound at Atlantic.	Elizabeth Drive eastbound at Enterprise Lane.
Commercial southbound at College.	Elizabeth Drive eastbound at Luster Drive.
Commercial southbound at Main.	Elizabeth Drive eastbound at Skyview Drive.
Commercial southbound at Pacific.	Elizabeth Drive westbound at Luster Drive.
Compton westbound at Branson Landing Boulevard.	Elizabeth Drive westbound at Skyview Drive.
Concord southbound at Fall Creek Road.	Ellen northbound at W 76 Country Blvd.
Cooper Creek Road westbound at Fall Creek.	Ellen northbound at Cedar.
Country Bluff northbound at Fall Creek Road.	Ellen southbound at Pine.
Country Bluff southbound at Fall Creek Road.	Ellison eastbound at Fifth.
Country Ridge Way northbound at Park Boulevard.	Ellison westbound at Fifth.
Country Ridge Way westbound at Park Boulevard.	Elm eastbound at Sunshine.
Country Trace southbound at Herschend.	Enterprise Lane southbound at Elizabeth Drive.
Courtney eastbound at Loyd Road.	Enterprise Lane southbound at State Highway 165.
Crosby northbound at Main.	Erie northbound at Cedar.
Crosby southbound at Main.	Erie southbound at Pine.
Crosby Street eastbound at Roark Valley.	Estate Circle (north end) westbound at Fall Creek Drive.
Cummings northbound at Westwood.	Estate Circle (south end) westbound at Fall Creek Drive.
Cummings southbound at Main.	Executive Court northbound at Branson Commerce Parkway.
Cypria eastbound at Blue Meadows.	Expressway Lane eastbound at Shepherd of the Hills Expressway.
Dakota westbound at 165 Highway.	Expressway Lane westbound at Roark Valley.
Dalton northbound at Fall Creek Road.	Expressway Lane westbound at Shepherd of the Hills Expressway.
Deer Valley westbound at Gretna.	Fagan westbound at Bee Creek.
Della northbound at Hero.	Fall Creek Drive westbound, at its intersection with itself, 105 feet east of Highway 165.
Della southbound at Main.	Fall Creek Drive northbound, at its intersection with itself, 140 feet east of Highway 165.
Dr. Good southbound at W 76 Country Blvd.	
Eagle Rock westbound at 248 Highway.	
East End (northern portion) westbound at South.	

Fall Creek Drive westbound at Fall Creek Trail, 3,720 feet east of Highway 165.

Fall Creek Road westbound at 165 Highway.

Fall Creek Trail westbound at Fall Creek Drive, 1,035 feet east of Highway 165.

Falls Parkway eastbound at Blue Meadows.

Falls Parkway northbound at Dakota.

Falls Parkway westbound at 165 Highway.

Ford eastbound at Aaron.

Forsythe southbound at W 76 Country Blvd.

Francis northbound at W 76 Country Blvd.

Francis northbound at Gretna.

Francis northbound at Sheryl.

Francis southbound at W 76 Country Blvd.

Francis southbound at Cedar.

Francis southbound at Sheryl.

Frank Rea eastbound at Fall Creek.

Frank Rea northbound at Green Mountain Drive.

Garges northbound at Scott.

Garges southbound at Frank Rea.

Garner Court eastbound at Country Bluff Drive.

Garner Drive northbound at Loganberry.

Glory eastbound at Green Mountain Drive.

Glory westbound at Green Mountain Drive.

Golf View northbound at Wildwood.

Grand Avenue eastbound at Luster Drive.

Grand Avenue westbound at Luster Drive.

Grand Avenue eastbound at Skyview Drive.

Grand Avenue westbound at Skyview Drive.

Green Mountain Drive northbound at W 76 Country Blvd.

Green Mountain Drive northbound at 376 Highway.

Green Mountain Drive northbound at Wildwood.

Green Mountain Drive southbound at Keeter/Green Mountain Drive.

Green Mountain Drive southbound at Wildwood.

Gretna Road eastbound at North Wildwood Drive.

Gretna Road westbound at North Wildwood Drive.

Harmony Lane southbound at Dakota.

Harvey northbound at W 76 Country Blvd.

Hatchery Road northbound at State Highway 165.

Hawthorne northbound at Cliff.

Henderson eastbound at 165 Highway.

Hensley eastbound at Third.

Hensley eastbound at Fifth.

Hensley eastbound at Business 65 Highway.

Hensley westbound at Third.

Hensley westbound at Fifth.

Hensley westbound at Business 65 Highway.

Hero southbound at Main.

Herschend Lane eastbound at Fall Creek Road.

Heryford eastbound at Fifth.

Heryford northbound at Long.

Heryford westbound at Fifth.

Highland eastbound at Michel.

Highland eastbound at Sunshine.

Highland eastbound at Walnut.

Highland westbound at Roark Valley.

Highland westbound at Sunshine.

Highland westbound at Walnut.

Hillcrest Place westbound at Hillcrest Terrace.

Hillcrest Terrace northbound at Berry Drive.

Hugo Circle southbound at Herschend Lane.

Hugo Drive northbound at Herschend Lane.

- Hunter Avenue northbound at Fall Creek Road.
- Illinois westbound at 165 Highway.
- Ivy eastbound at Town and Country Drive.
- Ivy westbound at Gretna.
- Jessjo eastbound at Wildwood.
- Jessjo northbound at Oak Ridge.
- Judy northbound at W 76 Country Blvd.
- Jupiter Way westbound at Fall Creek.
- Jury Lane northbound at Park Boulevard.
- Jury Lane westbound at Country Ridge Way.
- Keeter/Green Mountain Drive eastbound at W 76 Country Blvd.
- Keeter/Green Mountain Drive eastbound at Green Mountain Drive.
- Keeter/Green Mountain Drive westbound at Green Mountain Drive.
- Keystone westbound at 248 Highway.
- Kingsway eastbound at Sixth.
- Kynion Court westbound at Redwine Avenue.
- Lake Drive westbound at Canal.
- Lakewood eastbound at Parnell.
- Lakewood westbound at Compton.
- Lee eastbound at Pocahontas.
- Lee westbound at Cliff.
- Lee westbound at Pocahontas.
- Little Pete's Road northbound at Shepherd of the Hills Expressway.
- Little Pete's Road southbound at Shepherd of the Hills Expressway.
- Little Pete's Road westbound at W 76 Country Blvd.
- Loganberry Court northbound at Loganberry.
- Loganberry westbound at Country Bluff.
- Long eastbound at Fifth.
- Long eastbound at Business 65 Highway.
- Long eastbound at Heryford.
- Long westbound at Fifth.
- Long westbound at Heryford.
- Lopez Loop eastbound at Big Sky Drive.
- Lopez Loop southbound at Park Boulevard.
- Lopez Loop southeastbound at Park Boulevard.
- Luster Drive northbound at Skyview Drive.
- Luster Drive southbound at State Highway 165.
- MacBeth eastbound at Caudill Way.
- MacBeth northbound at Celtic.
- MacBeth southbound at Celtic.
- Maddux eastbound at Second.
- Maddux eastbound at Sixth.
- Maddux westbound at Second.
- Maddux westbound at Sixth.
- Maddux westbound at Commercial.
- Magnolia southbound at Lakewood.
- Main eastbound at Commercial.
- Main eastbound at Crosby.
- Main eastbound at Hero.
- Main eastbound at Sycamore.
- Main westbound at Commercial.
- Main westbound at Crosby.
- Main westbound at Hero.
- Main westbound at Sycamore.
- Malone eastbound at Parnell.
- Malone westbound at Eiserman.
- Mayden westbound at Eiserman.
- McFarland westbound at Third.
- Meadow westbound at Blue Meadows.
- Melody Penner westbound at James F. Epps.
- Michel northbound at Wilshire.
- Miller eastbound at Truman.
- Miller westbound at Dr. Good.
- Miller westbound at Truman.
- Mockingbird eastbound at Michel.

- Mockingbird eastbound at Roark Avenue.
Mockingbird eastbound at Sunshine.
Mockingbird westbound at Michel.
Mockingbird westbound at Roark Avenue.
Mockingbird westbound at Sunshine.
Mockingbird westbound at Walnut.
Monarch drive eastbound at Fall Creek Drive.
Monroe southbound at Cliff.
Montgomery Drive northbound at State Highway 165.
Montgomery Drive westbound at State Highway 165.
Moore northbound at Christopher.
Moore northbound at Lake Drive.
Moore southbound at Lake Drive.
Neihardt northbound at Truman.
Neihardt southbound at Truman.
Neihardt westbound at Dr. Good.
Nettie northbound at Hero.
Nettie southbound at Main.
Oak Bluff northbound at Fagan.
Oak Bluff southbound at Fagan.
Oak Creek eastbound at Tanger.
Oak Creek eastbound at Wildwood.
Oak Creek westbound at Tanger.
Oak Creek westbound at Wildwood.
Oak Grove eastbound at Sunshine.
Oak Grove westbound at Cliff.
Oak Lane northbound at Valley View.
Oak Lane northbound at Wilshire.
Oak Lane southbound at Wilshire.
Oklahoma eastbound at Commercial.
Oklahoma eastbound at Michel.
Oklahoma eastbound at Sunshine.
Oklahoma eastbound at Veterans Boulevard.
Oklahoma westbound at Commercial.
Oklahoma westbound at Sunshine.
Oklahoma westbound at Veterans Boulevard.
Outdoor westbound at Dalton.
Outdoor Street eastbound at Shady Drive.
Outdoor Street westbound at Shady Drive.
Overlook Trail northbound at Jury Lane.
Overlook Trail southbound at Country Ridge Way.
Owen Lane eastbound at Fall Creek.
Ozark Scenic eastbound at 65 Outer Road.
Ozark Scenic southbound at Branson Hills Parkway.
Pacific eastbound at Sixth.
Pacific eastbound at Business 65 Highway.
Pacific eastbound at Commercial.
Pacific eastbound at Sunshine.
Pacific westbound at Sixth.
Pacific westbound at Business 65 Highway.
Pacific westbound at Commercial.
Park Boulevard westbound at Sycamore Church Road.
Parnell Circle southbound at Parnell Drive.
Pat Nash westbound at W 76 Country Blvd.
Pine eastbound at Judy.
Pine westbound at 165 Highway.
Pinky westbound at Town and Country Drive.
Plantation Circle westbound at Fall Creek Drive.
Plaza Drive eastbound at Enterprise Lane.
Plaza Drive eastbound at Luster Drive.
Plaza Drive westbound at Luster Drive.
Plaza Drive eastbound at Skyview Drive.
Plaza Drive westbound at Skyview Drive.
Pocahontas eastbound at Cliff.

- Pocahontas northbound at Lee.
- Pocahontas southbound at Lee.
- Pocahontas westbound at Cliff.
- Point Royale northbound at 165 Highway.
- Point Royale southbound at Point Royale.
- Preserve Drive eastbound at Green Mountain Drive
- Price eastbound at Business 65 Highway.
- Price eastbound at Sycamore.
- Price westbound at Business 65 Highway.
- Quail westbound at Bird.
- Quebec southbound at 165 Highway.
- Redwine Avenue southbound at Park Boulevard.
- Redwine Circle westbound at Redwine Avenue.
- Ridgetop Lane westbound at Stone Valley Circle.
- River Bluff northbound at Fall Creek Road.
- River Drive westbound at Caudill Way.
- River Drive westbound at River Bend.
- Roark Avenue northbound at Valley View.
- Roark Avenue northbound at Wilshire.
- Roark Avenue southbound at Wilshire.
- Roark Creek northbound at Skaggs.
- Rockridge Road eastbound at Stone Valley Circle.
- Root Avenue eastbound at Second.
- Rosalee southbound at W 76 Country Blvd.
- Rosalee westbound at Gretna.
- Rose O'Neill southbound at Neihardt.
- Rose O'Neill southbound at Truman.
- Sapling Drive southbound at Bird Road.
- Schaefer eastbound at W 76 Country Blvd.
- Schaefer northbound at Keeter/Green Mountain Drive.
- Schaefer southbound at Keeter/Green Mountain Drive.
- Scott southbound at Frank Rea.
- Seminole westbound at Pocahontas.
- Shady Drive northbound at Fall Creek Road.
- Shawnee eastbound at Pocahontas.
- Shawnee Avenue westbound at Cliff.
- Sherry Lane eastbound at Enterprise Lane.
- Sherry Lane eastbound at Luster Drive.
- Sherry Lane westbound at Luster Drive.
- Sherry Lane eastbound at Skyview Drive.
- Sherry Lane westbound at Skyview Drive.
- Sheryl Street eastbound at Francis Street.
- Sheryl Street westbound at Francis Street.
- Shore westbound at Canal.
- Silver Lane eastbound at Skyview Drive.
- Silver Lane westbound at Skyview Drive.
- Skyview Drive eastbound at Luster Drive.
- Skyview Drive westbound at Luster Drive.
- Skyview Drive southbound at State Highway 165.
- South Falls northbound at Falls Parkway.
- South Falls southbound at Fall Creek Road.
- South northbound at 248 Highway.
- South northbound at Stoneridge.
- Spring Creek southbound at Fall Creek Road.
- Spring Creek westbound at Summit.
- Stanley eastbound at Cliff.
- Stanley K. Tanger Boulevard southbound at W 76 Country Blvd.
- Stanley westbound at W 76 Country Blvd.
- Stockstill eastbound at Walnut.
- Stoneridge westbound at South.
- Summerwood northbound at Town and Country Drive.
- Summit northbound at Green Mountain Drive.
- Sunshine northbound at W 76 Country Blvd.
- Sunshine northbound at Lee.

- Sunshine northbound at Wilshire.
 Sunshine southbound at W 76 Country Blvd.
 Sunshine southbound at Cliff.
 Sunshine southbound at Lee.
 Sycamore northbound at Long.
 Sycamore northbound at Main.
 Sycamore Street northbound at College Street.
 Sycamore Street southbound at College Street.
 Sycamore Street southbound at Hensley Avenue.
 Sycamore southbound at Long.
 Sycamore southbound at Main.
 Terrace northbound at Champaign.
 Terrace Road westbound at Champaign Boulevard.
 Thompson northbound at Long.
 Thompson southbound at Hensley.
 Todd westbound at Truman.
 Town and Country Drive westbound at Gretna.
 Town Center northbound at Branson Hills Parkway.
 Town Center southbound at Bird.
 Trotter northbound at Shepherd of the Hills Expressway.
 Trotter southbound at Little Pete's Road.
 Truman eastbound at Neihardt.
 Truman northbound at Miller.
 Truman northbound at Roark Valley.
 Truman northbound at Todd.
 Truman southbound at Main.
 Truman southbound at Miller.
 Truman westbound at Neihardt.
 Tyler eastbound at Stockstill.
 Valley View eastbound at Walnut.
 Valley View westbound at Walnut.
 Van Buren westbound at 165 Highway.
 Vaughn northbound at Main.
- Violyn northbound at Shepherd of the Hills Expressway.
 Violyn southbound at Gretna Road.
 Vixen eastbound at Town Center.
 Walker northbound at Fall Creek Road.
 Walnut northbound at Highland.
 Walnut northbound at Valley View.
 Walnut southbound at Highland.
 Walnut southbound at Main.
 West Main westbound at Blackner.
 Western westbound at Blue Meadows.
 Westwood Drive southbound at Briarcliff Road.
 Westwood northbound at Berry.
 Westwood southbound at Berry.
 Wildwood Drive eastbound at Golf View Drive.
 Wildwood Drive westbound at Golf View Drive.
 Wildwood eastbound at Fall Creek.
 Wildwood eastbound at Green Mountain Drive.
 Wildwood northbound at W 76 Country Blvd.
 Wildwood northbound at Gretna.
 Wildwood southbound at W 76 Country Blvd.
 Wildwood southbound at Gretna.
 Wildwood westbound at Green Mountain Drive.
 Willow Bend northbound at 165 Highway.
 Willow westbound at Parnell.
 Wilshire northbound at Valley View.
 Wilshire westbound at Walnut.
 Worthing southbound at Lake Drive.
 Wright northbound at Main.
- (Code 1996, tit. III, schedule I; Code 2005, § 86-621; Ord. No. 192, 12-20-1938; Ord. No. 2000-147, § 1, 10-9-2000; Ord. No. 2002-144, 11-25-2002; Ord. No. 2003-011, § 1, 1-13-2003; Ord. No. 2003-141, § 1, 7-28-2003; Ord. No. 2003-171, § 1, 8-25-2003; Ord. No. 2005-030, § 1, 3-28-2005; Ord. No. 2005-184, §§ 1, 2, 10-10-2005; Ord. No. 2006-039, §§ 1, 2, 3-27-2006; Ord. No. 2006-100, § 1, 7-10-2006; Ord. No. 2006-165, § 1, 11-13-2006; Ord. No. 2007-007, § 1, 2-12-

2007; Ord. No. 2007-076, § 1, 8-27-2007; Ord. No. 2007-092, § 1, 9-24-2007; Ord. No. 2008-088, § 1, 9-8-2008; Ord. No. 2008-104, § 1, 10-28-2008; Ord. No. 2009-068, §§ 1, 2, 9-22-2009; Ord. No. 2010-059, § 1, 6-8-2010; Ord. No. 2011-043, § 1, 5-10-2011; Ord. No. 2012-0100, § 1, 7-10-2012; Ord. No. 2013-0054, § 1, 4-23-2013; Ord.

No. 2014-0096, § 2, 10-14-2014; Ord. No. 2014-0125, § 2, 11-10-2014; Ord. No. 2015-0021, § 2, 2-10-2015; Ord. No. 2017-0085, § 2, 8-22-2017; Ord. No. 2017-0160, § 2, 11-28-2017; Ord. No. 2020-0040, § 2, 3-19-2020; Ord. No. 2024-0017, § 2, 2-27-2024)

Sec. 86-622. Schedule II—Speed limits.

(a) In accordance with section 86-151, the maximum speed limits on the city roads and highways shall be as follows:

Location	Speed (mph)
Fifth Street and Cliff Drive, between Brown Street and Highway 65 overpass	15
Business Route 65, from the Highway 65 overpass to the southern municipal boundary	35
Branson Commerce Parkway from Park Boulevard eastward to its eastern terminus	45
Branson Hills Parkway, between Missouri Highway Route 248 and Ozark Scenic Drive	45
Branson Hills Parkway, between Ozark Scenic Drive and Missouri Highway Route 65	35
Branson Landing Boulevard, beginning at Missouri Highway Route 65 on the north, southward to the point it crosses the Union Pacific Railroad tracks	35
Branson Landing Boulevard at Skaggs Road, Parnell Drive and Veterans Boulevard, roundabout perimeter, including 400 feet of each road extending out from the roundabout	20
Expressway Lane, from Shepherd of the Hills Expressway westward and southward, to its intersection with Roark Valley Road	35
Fall Creek Road, from Roark Valley Road south to W 76 Country Blvd	45
Fall Creek Road, from W 76 Country Blvd south and west to the municipal boundary	35
Forsythe Road, from Roark Valley Road south to W 76 Country Blvd	35
Forsythe Street at Oak Creek Drive, roundabout perimeter, including 200 feet of each road extending out from the roundabout	20
Francis Street, from W 76 Country Blvd to Gretna Road	35
Green Mountain Drive, from W 76 Country Blvd west to Highway 165	35
Gretna Road, from W 76 Country Blvd north to Roark Valley Road	35
Gretna Road, from Roark Valley Road north to Shepherd of the Hills Expressway	40
Highway 65, in the city, from the northern municipal boundary to the southern municipal boundary	60
W 76 Country Blvd, from Business 65 west to the municipal boundary	35
Highway 165, from W 76 Country Blvd south to the municipal boundary	35
Highway 248, from Highway 65 westward, to its intersection with James F. Epps Road	40
Highway 248, from James F. Epps Road to the north city limits	45
James F. Epps Road, during in-school days and times, where posted for school zone	30
James F. Epps Road, from Highway 248 to the Epps Road/Roark Valley Road intersection, unless otherwise posted for in school days and times for school zone	45
North Wildwood, from W 76 Country Blvd north to Gretna Road	35
Park Boulevard from Sycamore Log Church Road eastward to its intersection with Branson Commerce Parkway	35

Location	Speed (mph)
Roark Valley Road, from W 76 Country Blvd west to the Shephard of the Hills Expressway	45
Rosalee Street	35
Shepherd of the Hills Expressway, from Highway 248 westward, to its intersection with Roark Valley Road	45
Shepherd of the Hills Expressway, from W 76 Country Blvd eastward, to its intersection with Little Pete's Road	35
Shepherd of the Hills Expressway, from Little Pete's Road eastward, to its intersection with Roark Valley Road	45
Spring Creek Road, from Summit Drive, eastward 1,200 feet	35
Wildwood Drive, from Gretna Road south to Fall Creek Road	35
All alleys	5
All city parks, city campgrounds	15
All of Canal Street, Moore Street, Worthing Street, Christopher Drive, Lake Drive and Shore Lane	15
All other streets and highways bounding city school property when posted	As posted
All other streets and highways within the municipal boundaries, except all streets bounding city school property, or unless otherwise posted	25

(Code 1996, tit. III, schedule II; Code 2005, § 86-622; Ord. No. 90-20, §§ 1—3, 6-25-1990; Ord. No. 95-27, § 1, 3-27-1995; Ord. No. 95-58, §§ 1, 2, 5-22-1995; Ord. No. 95-124, §§ 1—4, 10-23-1995; Ord. No. 96-041, § 1, 5-13-1996; Ord. No. 96-063, § 1, 7-22-1996; Ord. No. 97-031, §§ 1—3, 8-25-1997; Ord. No. 98-142, §§ 3, 4, 10-12-1998; Ord. No. 99-952, §§ 1, 2, 9-20-1999; Ord. No. 2006-014, § 1, 2-13-2006; Ord. No. 2006-038, § 1, 3-27-2006; Ord. No. 2008-105, § 1, 10-28-2008; Ord. No. 2009-004, § 1, 2-10-2009; Ord. No. 2009-082, § 1, 10-27-2009; Ord. No. 2009-091, § 1, 11-24-2009; Ord. No. 2010-003, § 1, 1-26-2010; Ord. No. 2010-043, § 1, 4-27-2010; Ord. No. 2010-097, § 1, 8-24-2010; Ord. No. 2013-0038, § 1, 2-26-2013; Ord. No. 2015-0129, § 2, 11-10-2015; Ord. No. 2020-0040, § 2, 3-19-2020; Ord. No. 2024-0049, § 2, 6-11-2024; Ord. No. 2024-0067, § 2, 7-23-2024)

Sec. 86-623. Schedule III—Restricted or prohibited parking.

In accordance with sections 86-373 to 86-376 and 86-354, parking shall, on certain roads or streets or parts thereof and in parking areas, be prohibited or limited as described in this schedule:

Location	Limit
Atlantic, north side, from Third Street, 130 feet east	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Atlantic, north side, between Veterans Boulevard and Third Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Atlantic Street between Business 65 and Commercial Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Atlantic Street between Business 65 and Second Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Awbery public parking lot, located at the intersection of Atlantic Street and Commercial Street	Three-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Long Street, both sides, between the Union Pacific Railroad and Sycamore Street	No parking at any time
Chippewa Avenue, north side, from Pocahontas Street, 375 feet west	No parking between 6:00 a.m. and 1:00 p.m. Sundays.
College Street, south side, from Second Street to Third Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
College Street, north side, between Commercial Street and Sycamore Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
College Street, on the north side, between Business 65 and Third Street	No parking at any time

Location	Limit
College Street, both sides, between Business 65 and Commercial Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Commercial Street, west side from its intersection with Business 65 right-turn-only lane north to College Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Commercial Street from College Street, north to Atlantic Street	Two-hour limit
Commercial Street from its intersection with Atlantic North to Oklahoma Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Commercial Street, east side, from its intersection with Business 65 right-turn-only lane north to College Street	One-half-hour limit between 8:00 a.m. and 4:00 p.m., except for Sundays and public holidays
Commercial Street, from its intersection with Business 65 North to Maddux Street	No parking at any time
Hunter Avenue, both sides, from Fall Creek Road to Outdoor Street	No parking at any time
Judy Street, east side, from Pine Street, 145 feet north and 195 feet south	No parking at any time
Judy Street, west side, from Pine Street, 125 feet north	No parking at any time
Maddux Street from Business 65 to Sycamore Street (Post Office South parking lot)	One-half-hour limit between 8:00 a.m. and 4:00 p.m., except for Sundays and public holidays
Main Street from Business 65 to Sycamore Street	Two-hour limit between 8:00 a.m. and 6:00 p.m., except Sundays and public holidays
Pacific Street, both sides, from Fifth Street, 200 feet west	No parking between 6:00 a.m. and 6:00 p.m., except Sundays and public holidays
Pacific Street from Second Street to Sycamore Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Pacific Street, north side, from the intersection with Third Street to the intersection with Second Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Pine Street, north side, from Judy Street, 330 feet west	No parking at any time
Pine Street, south side, from Judy Street to S. State Hwy 165	No parking at any time
Pocahontas Street, east side, from Seminole Avenue, north 288 feet	No parking at any time
Public parking lot in Liberty Plaza, formally the Old City Hall site located at the southeast corner of the intersection of Business 65 and Pacific Street	Three-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Reish parking garage, located at intersection of Sycamore Street and Pacific Street, lower and middle level	No parking shall be allowed, except for rental tenants
Roark Creek Road, both sides, from Skaggs Road south 277 feet	No parking at any time.
Second Street, east side, from College Street, 160 feet north	Four-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Second Street, west side, from College Street, 160 feet north	No parking at any time
Seminole Avenue, north side, from Pocahontas Street to Cherokee Street	No parking between 6:00 a.m. and 1:00 p.m. Sundays
Schaefer Drive, south side, from Arlene Street to Anne Lane	No parking at any time
Sixth Street, west side, from Atlantic Street to Main Street	No parking at any time
Sycamore Street from Main Street to Atlantic Street	Two-hour limit between 8:00 a.m. and 4:00 p.m., except Sundays and public holidays
Vaughn Drive, east side, from W 76 Country Blvd, south 632 feet	No parking at any time

(Code 1996, tit. III, schedule III; Code 2005, § 86-623; Ord. No. 183, 8-2-1937; Ord. No. 254, 8-9-1954; Ord. No. 303, 6-13-1960; Ord. No. 513, 12-12-1977; Ord. No. 88-64, § 3, 8-22-1988; Ord. No. 90-6, §§ 1—3, 2-26-1990; Ord. No. 90-26, §§ 1—3, 7-23-1990; Ord. No. 90-41, § 1, 9-24-1990; Ord. No. 93-73, §§ 1, 9, 12, 8-9-1993; Ord. No. 94-74, 6-27-1994; Ord. No. 95-62, § 2, 5-22-1995; Ord. No. 97-058, § 1, 11-24-1997; Ord. No. 2001-042, 4-23-2001; Ord. No. 2006-129, § 1, 9-11-2006; Ord. No. 2007-100, § 1, 10-8-2007; Ord. No. 2008-011, § 1, 1-28-2008; Ord. No. 2008-106, § 1, 10-28-2008; Ord. No. 2009-005, § 1, 2-10-2009; Ord. No. 2009-046, § 1, 6-9-2009; Ord. No. 2009-083, § 1, 11-10-2009; Ord. No. 2010-063, § 1, 6-8-2010; Ord. No. 2010-113, § 1, 10-12-2010; Ord. No. 2010-123, § 1, 11-9-2010; Ord. No. 2012-0141, § 1, 9-11-2012; Ord. No. 2012-0164, § 1, 10-9-2012; Ord. No. 2013-0071, § 1, 5-28-2013; Ord. No. 2014-0108, § 2(86-623), 10-28-2014; Ord. No. 2015-0053, § 1, 5-12-2015; Ord. No. 2015-0156, § 2, 11-24-2015; Ord. No. 2015-0188, § 2, 12-15-2015; Ord. No. 2017-0011, § 1, 2-14-2017; Ord. No. 2017-0135, § 2, 11-13-2017; Ord. No. 2020-0040, § 2, 3-19-2020)

Sec. 86-624. Schedule IV—One-way streets.

In accordance with section 86-191, vehicular traffic within the limits of the roads, streets or alleys described in this section 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.

Street	Remarks
Alley in Block 2	Traffic shall proceed only in an easterly direction from Commercial Street to Sycamore Street.
Alley in Block 3	Traffic shall proceed only in an easterly direction from Commercial Street eastward 215 feet.
Alley in Block 10	Traffic shall proceed only in an easterly direction from Business 65 to Commercial Street.
Alley in Block 11	Traffic shall proceed only in a westerly direction from Commercial Street to Veterans Boulevard.
Atlantic Street	Traffic shall proceed only in a westerly direction from Lake Street to St. Limas Street.
Lake Street	Traffic shall proceed only in a northerly direction to Atlantic Street.
Main Street	Traffic shall proceed only in an easterly direction from St. Limas to the Lake Front.
Park Street	Traffic shall proceed only in a northerly direction from Main Street to Atlantic Street.

(Code 1996, tit. III, schedule IV; Code 2005, § 86-623; Ord. No. 303, 6-13-1960; Ord. No. 322, 4-8-1963; Ord. No. 508, 11-14-1977; Ord. No. 2014-0124, § 2, 11-10-2014)

Chapters 87—89

RESERVED

Chapter 90

UTILITIES*

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- Sec. 90-72. Maintenance of preliminary treatment or flow-equalizing facilities.
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***State law references**—Authority to construct and maintain sewerage system, RSMo 250.010; financing cost, RSMo 250.040 et seq.; rates for services, RSMo 250.190, 250.200; authority to contract with industrial establishment to abate stream pollution, RSMo 250.230; general sewer system may be established, special tax levied for purpose, RSMo 88.832; district sewers to be established, cost thereof, etc., RSMo 88.834 et seq.; regulation of private sewers, RSMo 88.842; condemnation of property for sewers, RSMo 88.844; validity, enforcement of special tax bills, RSMo 88.846 et seq.

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- Sec. 90-75. Special agreements for acceptance of industrial waste.
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UTILITIES

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Sec. 90-275. Discontinuance of water service for noncompliance.

ARTICLE I. IN GENERAL

Sec. 90-1. Penalty.

(a) Any person violating any of the provisions of this chapter shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-13.

(b) Any person found to be violating any provision of this chapter, except those constituting disorderly conduct or section 90-24, 90-77, or 90-107(c) or division 2 of article IV, 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.

(c) Any person violating any provision of this chapter shall become liable to the city for any expense, loss or damage occasioned to the city by reason of such violation.

(d) Whenever the board has determined that it is necessary to implement a Phase III or Phase IV Alert, it shall be unlawful for customers to engage in any of the water use activities described and defined by division 2 of article IV.

(Code 1988, §§ 515.210, 635.130; Code 1996, §§ 700.210(A)—(C), 710.210, 715.100; Code 2005, § 90-1; Ord. No. 344, § 17, 6-14-1965; Ord. No. 345, § 12, 6-14-1965; Ord. No. 491, art. VIII, §§ 1—3, 5-9-1977; Ord. No. 590, § 3, 7-13-1981; Ord. No. 96-053, § 11, 6-24-1996; Ord. No. 98-017, § 2, 2-23-1998; Ord. No. 2001-118, 9-10-2001)

Sec. 90-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

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 two times the diameter of the supply pipe measured vertically

above the flood level rim of the receiving vessel, but in no case less than one inch. Construction shall be as approved by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California and adopted by the state department of natural resources.

Auxiliary water supply means any water source or system, other than the public water supply, that may be available in a building or on a premises.

Backflow means the flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

Backflow prevention assembly means a double check valve, reduced pressure principle backflow preventer or variations of either having resilient-seated shut-off valves on both the upstream and downstream end and the necessary test cocks as integral parts of the assembly that is on the current list of approved backflow prevention assemblies established by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California and adopted by the state department of natural resources.

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius expressed in milligrams per liter (mg/l).

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from 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 a private gravity sewer line or private grinder/sewage pump and force main extending from the building drain to the public sewer system and serving only one property or one property owners association.

Bypass means any arrangement of pipes, plumbing, or hoses designed to divert the flow around an installed backflow device or assembly through which the flow normally passes.

Certified backflow assembly tester means a person certified by the state department of natural resources to inspect, test and report on backflow prevention assemblies.

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.

Combined sewer means a sewer system receiving both surface runoff and sewage.

Commercial and industrial customers means those customers that provide goods and services for profit.

Conference, conciliation and persuasion means a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the city or state department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the state department of natural resources. During any such meeting, the state department of natural resources and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance.

Containment means protection of the public water supply by installing a backflow prevention assembly or air gap separation on the main service line to a facility after the connection to the meter and before the first branch line.

Cross connection means any physical connection between a potable water supply and any waste pipe, soil pipe, sewer pipe, drain, non-potable source or any unapproved source or system based on the standards of the state division of health, and through which backflow can occur to contaminate or pollute the public potable water system. Cross connections also include any potable water supply outlet which is submerged or can

be submerged in wastewater or any other source of contamination, bypass arrangements, jumper connections, removable sections, swivel or change over devices, and other temporary or permanent devices through which, or because of which, backflow can occur.

Cross connection control means the use of backflow prevention assemblies, methods and procedures to prevent contamination or pollution of a potable water supply through cross connections.

Customer means an owner, tenant or other person possessing an interest in a subject property, who makes the arrangement with the city for water or sewer service to the subject property, and any contract user, which includes all persons and entities who purchase water from the city or receive sewer service for individual use, resale or redistribution, whether on a full-time, temporary or emergency basis.

Customer charge means that portion of the total water or sewer service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the treatment works.

Detector double check valve assembly (DDCVA) means a double check valve assembly (DCVA) with an additional smaller DCVA assembly and flow detector meter in parallel, used to detect system leaks and unauthorized use.

Detector reduced pressure principle backflow prevention assembly (DRP) means an RP with an additional smaller RP assembly and flow detector meter in parallel, used to detect system leaks and unauthorized use.

Discharge means the causing or permitting of one or more water contaminants to enter the waters of the state.

Double check valve assembly (DCVA) means a backflow prevention assembly consisting of two independently operating check valves, four test cocks, and two shut-off valves.

Effluent control regulations means limitations on the discharge of water contaminants.

Eleemosynary means not-for-profit establishments providing charitable goods or services.

Emergency means a sudden or unexpected natural or manmade event restricting the ability of the city's utilities department to supply adequate safe potable water or to convey or treat sewage.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Governmental means an organization, business or institution governed by a city, county, state or federal body.

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.

Class I hazard—Contamination 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. The public potable water system shall be protected from a Class I Hazard by an air gap separation or a reduced pressure principle backflow prevention assembly.

Class II Hazard—Pollutional 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 and which would constitute a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances, but would not be dangerous to health. The public potable water system shall be protected from a Class II Hazard by an air gap separation, a reduced pressure principle backflow prevention assembly, or a double check valve assembly backflow preventer.

Income includes, but is not limited to, retirement benefits, consultant fees, and stock dividends.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Infiltration means the water entering a sewer system and service connections due to seepage of groundwater. Groundwater seepage into the sewer

system may be due to defective pipes, pipe joints, service connections or manhole walls. Infiltration problems are typically associated with older sewer systems located in low-lying areas.

Inflow means the water discharged to a sewer system and service connections arising from stormwater entry into the system. Sources of inflow include roof, basement, yard and area drains connected to the system. Surface runoff may also enter the system through tops of manholes or street drains connected to the system.

Isolation means protection of a facility's internal plumbing system by installing a backflow prevention assembly, air gap separation or other backflow prevention device on an individual fixture, appurtenance or system.

Minor violation means a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the federal environmental protection agency as other than minor.

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Normal domestic sewage means sewage that has a BOD concentration of not more than 300 mg/l and a suspended solids concentration of not more than 350 mg/l.

Operation and maintenance means all expenditures during the useful life of the treatment works for materials, labor, utilities, inflow, infiltration, and other items which are necessary for managing and maintaining the treatment works to achieve the capacity and performance for which such works were designed and constructed.

Outside city limits customer means a customer connected to the city water and/or sewer system but residing outside the corporate city limits.

Permit holders and applicants for a permit shall not include officials or employees who work full time for any department or agency of the state.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Phosphorous means elemental phosphorous.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

Pollution means the presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a nuisance 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 water, making its use objectionable.

Portable water means water which is safe for drinking or other sanitary purposes and is also suitable for domestic use.

Premises means buildings or structures located on public or private property.

Pretreatment regulations means limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the state department of natural resources determines are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment under any federal water pollution control act or guidelines shall be limited or treated pursuant to this section only as required by such act or guidelines.

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 (1.27 centimeters) in any dimension.

Public potable water system means any water system supplying water to the general public that

is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the state department of natural resources.

Public sewer means a sewer system in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Reduced pressure principle backflow prevention assembly (RP) means backflow prevention assembly consisting of four test cocks, two shut-off valves, two independently operating, spring loaded check valves with a reduced pressure zone between the checks. The zone contains a relief port which will open at atmosphere if the pressure in the zone falls within two psi of the supply pressure. The assembly provides protection against both back pressure and back-siphonage.

Reduction meter means a water meter installed, operated and maintained by the customer for the use of subtracting an amount of water measured through the customer's domestic water meter, but not discharged to the sanitary sewage system.

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 customer means a customer connected to the city water or sewer system whose parcel or structure is used for domestic dwelling purposes only.

Sanitary sewer means a sewer system which carries sewage and to which stormwater, surface water, and groundwater are not intentionally admitted.

Service connection means the terminal end of a service line from the public water or sewer system. If a meter is installed at the end of the water service, then the service connection means the downstream end of the meter.

Sewage means a combination of the water-carried wastes from residences, business build-

ings, institutions, and industrial establishments, together with such groundwater, surface water, and stormwater as may be present.

Sewer system (public) sanitary means pipelines or conduits, pumping stations, force mains, and all other structures, devices, appurtenances and facilities used for collecting, conveying and treating sewage.

Slug means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Stored water volume means the quantity of water contained in the city's storage tanks.

Storm drain or storm sewer means a pipe or conduit which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Suspended solids (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 laboratory filtering.

Treatment works means any devices and systems for the treatment, storage and distribution of potable water and the storage, treatment and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances.

Water consumption means the projected daily unrestricted use of water provided by utilities to customers.

Water contaminant means any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change, which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in RSMo 644.006—644.141 or

any federal water pollution control act, the federal Clean Water Act (33 USC 1251—1387), or is included in the definition of pollutant in such federal act.

Water contaminant source means the point of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in RSMo 644.006—644.141, and nonpoint source under any federal water pollution control act, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly.

Water meter means a water volume measuring and recording device, furnished and/or installed by the city, or furnished and/or installed by a customer and approved by the city.

Water quality standards means specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects.

Water system (public) means pipelines, conduits and all other structures, devices, appurtenances and facilities used for distribution and treatment of potable water.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common, and includes waters of the United States lying within the state.

(Code 1988, §§ 210.060, 515.250; Code 1996, §§ 280.040, 710.250; Code 2005, §§ 46-471, 46-501, 90-2; Ord. No. 472, §§ 1, 2, 8-23-1976; Ord. No. 494, § 2, 6-27-1977; Ord. No. 92-72, § 1, 11-9-1992; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2013-0012, § 90-272, 1-22-2013)

Secs. 90-3—90-22. Reserved.

ARTICLE II. COMBINED WATER AND SEWER SYSTEM

Sec. 90-23. System established.

The water and sewer system of the city, and all future improvements and extensions thereto, whether to the water or sewer system or to both, shall be combined, and it is hereby declared that the water and sewer system, and all future improvements and extensions thereto, henceforth be operated and maintained as a combined treatment works.

(Code 1988, § 635.010; Code 1996, § 700.010; Code 2005, § 90-31; Ord. No. 256, § 2, 10-4-1954)

Sec. 90-24. Application for service; deposit.

Application for water and sewer service shall be made to the finance department by the owner or occupant of the property served. Upon approval of the application, such applicant shall have the privilege of connecting to the city's combined water and sewer system. All costs of such connection shall be borne by the applicant with a water meter installation fee paid as provided in the city fee schedule. Each application shall be accompanied by the applicable deposit.

- (1) *Residential customer deposit.* Deposits for residential customers shall be in the amount provided in the city fee schedule and shall be paid in full before service is provided.
- (2) *Commercial customer deposit.* Deposits by commercial customers shall be in the amounts provided in the city fee schedule and shall be paid in full before service is provided.
- (3) *Commercial customer deposit adjustment.* Any commercial customer, after 24 months of uninterrupted service, may apply to have the meter deposit adjusted to an amount equal to two times the highest water and sewer bill during the last 12 months of service to the meter if the amount is less than the original deposit and no less than \$75.00. Such application may be granted, if the customer had no record of delinquent payment during the previous 12-month period.

- (4) *Interest on deposits.* Interest on commercial customer deposits will be calculated on the last day of each fiscal year, at the same rate of interest the city receives from its depository bank of record on funds held in the city's primary savings account, and such interest will be applied to the customer's water/sewer bill as a credit.
- (5) *Property manager and realtor deposits.* A service deposit in the amount provided in the city fee schedule shall be paid by property managers or realtors requesting to have water and sewer service or either transferred to their name for properties they are listing. The deposit may be transferred from properties, but a separate deposit will be required for each property.
- (6) *Residential and commercial sewer only customer deposits.* New sewer customers requesting sewer service for either a new or existing sewer connection, which has no city water connection, shall follow the applicable sewer deposit requirements in subsection (1), (2), or (3) of this section at 50 percent of the required deposit listed.

(Code 1988, § 635.020; Code 1996, § 700.020; Code 2005, § 90-32; Ord. No. 91-12, § 2, 3-25-1991; Ord. No. 2001-008, § 1, 1-22-2001; Ord. No. 2009-060, § 1, 8-25-2009; Ord. No. 2010-128, § 1, 11-23-2010)

Sec. 90-25. Responsibility for payment of water connection and maintenance charges.

All costs and expenses incident to the installation and connection of a building or facility to the water system, as well as all costs and expenses incident to the maintenance, operation, replacement and repair of the building or facility water line to the owner's side of the meter, 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, connection, maintenance, operation and repair of the water connection.

(Code 1988, § 635.021; Code 1996, § 700.030; Code 2005, § 90-33; Ord. No. 89-30, § 2, 8-14-1989)

Sec. 90-26. Water meter installation fee.

The officers and employees of the city are authorized to make the following charges for water meter installations: For any installation of new meter service, the applicant shall pay all city costs for the installation, including meters, parts, materials, labor and equipment.

(Code 1988, § 635.025; Code 1996, § 700.040; Code 2005, § 90-34; Ord. No. 590, § 1, 7-13-1981; Ord. No. 2006-037, § 1, 3-27-2006; Ord. No. 2010-128, § 1, 11-23-2010; Ord. No. 2013-0178, § 1, 11-26-2013)

Sec. 90-27. Records of sewer connections.

The finance director shall keep a book in which shall be entered the date of each sewer connection receipt, together with the name of the payer. The finance director shall file and preserve all of such receipts and exhibit the receipts, together with the book, to the auditing committee.

(Code 1988, § 635.030; Code 1996, § 700.050; Code 2005, § 90-35; Ord. No. 187, § 6, 7-6-1938)

Sec. 90-28. Liability to pay for services.

(a) The occupant of the premises receiving water and sewer services shall be liable to pay for such services rendered on the premises. Premises where the occupant is renting, leasing, or otherwise occupying the property by agreement with the property owner, the owner and/or landlord will receive notification of any delinquency in water and/or sewer payments incurred by the occupant at the time the occupant receives late payment or a shut-off notification.

(b) Any charges made under this chapter shall be due at such time or times as specified by the city, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. If such charges become delinquent, there shall be a lien upon the land charged and filed with the recorder of deeds in the county, where the land is situated. The city shall file with the recorder of deeds a similar notice releasing the lien when the delinquent amounts, plus five percent per annum interest and any recording fees or attorney's fees, have been paid in full. The lien

hereby created may be enforced by suit or foreclosure. The city shall have the power to sue the occupant in a civil action to receive and collect any sums due for such services, plus a reasonable attorney fee to be fixed by the court.

(c) Should a lien be placed upon a customer's property, the lien shall have priority and be enforced in the same manner as taxes levied for state and county purposes.

(Code 1988, § 635.040; Code 1996, § 700.060; Code 2005, § 90-36; Ord. No. 483, § 6, 2-28-1977; Ord. No. 2010-128, § 1, 11-23-2010; Ord. No. 2023-0119, § 2, 10-10-2023)

Sec. 90-29. Water and sewer service charges generally.

(a) The city shall collect water and sewer service charges for the use of, and the services rendered by, the city from the customers of each and every parcel of real estate or building which is connected to the water or sewer system of the city or which discharges sanitary sewage, industrial waste, water or other liquids either directly or indirectly into the sewer system of the city. Except as otherwise provided in this section, water or sewer service charges shall be based on the quantity of water used, as determined by metered water usage, on or in the property or premises subject to such charges, shall be computed by applying the rates established in this article, and shall be payable as provided in this article.

(b) The utilities director is hereby authorized to certify to the finance director water meters or service where the water used and metered is not processed through the city sewer system, including, but not limited to, irrigation systems, reduction meters and fire protection system meters. Except as otherwise provided, such meters certified by the utilities director, and the water used or metered therefore, shall be exempt from sewer service charges.

(c) Systems certified by the utilities director, as described in subsection (b) of this section, shall be constructed by and at the expense of the customer. Systems, including, but not limited to, irrigation systems, reduction meters and fire protection system meters, shall be used solely for

the intended uses and no other connections for other uses shall be allowed, except for the intended purpose of the system, including, but not limited to, irrigation of lawns or vegetation, the extinguishing of fire, testing of equipment, or fire drills. No connections for water service for uses other than fire protection shall be made to any private fire protection system. The addition of any other outlets or devices shall be reported immediately to the utilities department. For violation of this subsection, in addition to other remedies and recourses, both civil and criminal, allowed by this Code or any state law, including, but not limited to, RSMo 250.234, the city may discontinue service immediately.

(Code 1988, § 635.050; Code 1996, § 700.070; Code 2005, § 90-37; Ord. No. 345, § 3, 6-14-1965; Ord. No. 2003-021, § 1(700.070), 2-10-2003; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2010-128, § 1, 11-23-2010)

Sec. 90-30. Water and sewer account adjustments.

For customers who are connected to the city water and sewer system, or to the city sewer system only, and who experience a break in their water service line beyond the water meter, defined for the purposes of this section as connections and water fixtures on the customer side of the water meter, including the meter setter discharge nut, the following provisions shall apply to the determination for approval or denial of adjustment to water and/or sewer accounts:

(1) Water account adjustments.

- a. An adjustment may be made to a customer water account due to a break in a water line that is documented by unusually high water consumption and where there is substantial evidence that a water line break has occurred and repairs have been made to the customer's plumbing system for a water pipe breakage on the customer's side of the meter, including meter setter discharge nut breakage.
- b. Before an adjustment is made to a water account, proof shall be submit-

ted to the office of the utilities director in the form of a receipt for plumbing materials, an invoice from a plumbing company or other clearly documented information indicating the repair of a water line break on the customer side of the water meter. The information shall indicate the nature of the repair, the date of repair, the street address where the repair was made, the customer name and contact information. The utilities director and the finance director shall be responsible for the determination of approval or denial of the water account adjustment and the preparation of the supporting documentation.

- c. If a customer's water account is approved for adjustment:
 1. *Residential.* The account shall be adjusted to an amount equaling the average water bill incurred by the customer during the preceding three-month period, plus 50 percent of the water charges attributable to the water line break. Should the customer not have a three-month water account history at the address of the break, an account adjustment may be based upon a less than three-month history to calculate an average water usage.
 2. *Commercial.* The account shall be adjusted to an amount equaling the average water bill incurred by the customer during the preceding three-year period for the same month(s) being adjusted, plus 50 percent of the water charges attributable to the water line break. Should the customer not have a three-year water account history at the address of the break, an account adjustment

may be based upon less than three-year history to calculate an average water usage.

- d. One water account adjustment shall be allowed for any customer for leaks which occur during any 12-month period. Said adjustment may be substituted for one larger adjustment in the 12-month period. The previous adjustment amount shall be subtracted from the substitute adjustment.
- e. A water account adjustment may be allowed for up to two consecutive months if it is determined the reason for two consecutive high water bills are caused by one leak and the customer has not neglected to repair a detected breakage within the first billing cycle.
- f. Water account adjustments may be allowed:
 - 1. When a water line breakage occurs on the customer side of

- the meter within the meter pit, in underground water piping and fittings between the meter pit and the residence, business, or customer irrigation system, within the crawl space of the residence or business, or in other water lines located on the property and no condition(s) listed in subsection (1)g of this section apply.
2. Due to failure of a customer's pressure reducing valve.
 3. Due to failure of hot water tank pressure relief valves.
 4. Due to failure of RP backflow prevention assemblies.
 5. Due to malfunction of water softener device.
 6. Due to faulty toilet fixtures - residential only.
 7. If a heating source fails and results in freezing and breaking of water lines. Before an adjustment is made for water loss caused by a heat source failure, proof shall be submitted in the form of a receipt for materials, or an invoice from a heat source repair company, or other clearly documented information indicating the repair of a failed heat source. The information shall indicate the nature of the repair, the date of repair, the street address where the repair was made, the customer's name and contact information.
- g. No water adjustment shall be authorized for:
1. Leaking or defective faucets, sprinkler systems or components, or outdoor watering devices, whether aboveground or underground, including all irrigation lines and components beyond and including the customer's irrigation system control valve whether manual or automatic.
2. Water loss due to outside faucets which have been left running unattended.
 3. Amounts of water loss due to leaks, indoor or outdoor, which have been detected but left unrepaired, including those leaks in meter pits, underground lines between the meter pit and the residence, business, irrigation system, or within the crawl space of the residence or business.
 4. Water loss due to leaks in any customer water line, fixture, or water system component caused by improper winterization, or exposure to, or lack of protection from freezing weather conditions, including inadequate pipe bury depth, described as any water line buried less than 18 inches underground.
 5. Water leaks resulting from heat not being provided in houses, businesses, pool houses, or any other outbuilding or structure. (Excluding heat source failures described in subsection (1)f.7 of this section.)
 6. Water loss due to pipe breakage resulting from pipe installations not meeting city installation specifications or codes.
- (2) *Sewer account adjustments.* Sewer account adjustments related to an associated water leak shall be determined based on the following criteria:
- a. Before an adjustment is made to a sewer account, proof shall be submitted to the office of the utilities director in the form of a receipt for plumbing materials, an invoice from

a plumbing company, or other clearly documented information indicating the repair of a water line break, from the associated water leak, on the customer side of the water meter. The information shall indicate the nature of the repair, the date of repair, the street address where the repair was made, the customer name and contact information. The utilities director and the finance director shall be responsible for the determination of approval or denial of the sewer account adjustment, and the preparation of the supporting documentation.

- b. In cases where a sewer account adjustment is allowed the determination for adjusted charges will depend on whether water from the associated leak entered the sewer system. In cases where the lost water entered the sewer system and a water adjustment was allowed, the sewer adjustment will be based on:

1. *Residential.* An amount equaling the average sewer bill incurred by the customer during the preceding three-month period, plus 50 percent of the sewer charges attributed from the associated water leak.
2. *Commercial.* An amount equaling the average sewer bill incurred by the customer during the preceding three-year period for the same month(s) being adjusted, plus 50 percent of the sewer charges attributed from the associated water leak.

If the water associated from the leak enters the sewer system and there is no allowable water adjustment then no sewer account adjustment shall be allowed.

- c. If a city sewer customer connected to another public or private water supplier or private well experiences

a water leak that meets the criteria for an approved city water account adjustment as described in subsection (1) of this section, Water Account Adjustments, and the lost water associated from the leak enters the sewer system, the sewer adjustment will be based on:

1. *Residential.* An amount equaling the average sewer bill incurred by the customer during the preceding three-month period, plus 50 percent of the sewer charges attributed from the associated water leak.
2. *Commercial.* An amount equaling the average sewer bill incurred by the customer during the preceding three-year period for the same month(s) being adjusted, plus 50 percent of the sewer charges attributed from the associated water leak.

If the water associated from the leak enters the sewer system and none of the criteria is met for similar allowable city water adjustments then no sewer adjustment shall be allowed.

- d. If a city sewer customer or sewer customer connected to another public or private well experiences a water leak for any reason and the water loss associated with the leak did not enter the sewer system, but instead drained to the ground, then the approved sewer adjustment will be based on:

1. *Residential.* An amount equaling the average sewer bill incurred by the customer during the preceding three-month period.
2. *Commercial.* An amount equaling the average sewer bill incurred by the customer

during the preceding three-year period for the same month(s) being adjusted.

In order to be eligible for adjustment, information required in subsection (2)b of this section must be provided. Note: Faucets left running unattended are not eligible for sewer adjustment. Any outside faucet that is vandalized may be eligible for a water and sewer adjustment, provided there is clear evidence of the damage or vandalism. A police report shall be filed for vandalism in order to be eligible for adjustment. The same requirements for evidence of repairs included in subsection (2)b of this section shall apply.

- e. For residential or commercial sewer account customers that do not have the indicated billing history at the address of the leak, an account adjustment may be based upon a lesser history to calculate an average sewer usage.
- f. One sewer account adjustment shall be allowed for any customer for leaks which occurred during any 12-month period in cases where an associated water leak is approved for adjustment and the water enters the sewer system. Said adjustment may be substituted for one larger adjustment in the 12-month period. The previous adjustment shall be subtracted from the substitution adjustment. In situations where the water from an associated water leak does not enter the sewer system, but instead drains on the ground, the sewer adjustments shall not be limited to one in a 12-month period.
- g. A sewer account adjustment may be allowed for up to two consecutive months if it is determined the reason for two consecutive high sewer bills are caused by one associated water

leak and the customer has not neglected to repair a detected breakage within the first billing cycle.

- h. A sewer account adjustment may be allowed once per year, upon completion of a sewer service exemption for swimming pools form, for filling of swimming pools in an amount equal to the volume of a customer's pool. Said pool must drain to the ground, not be connected to the city sewer system and filled during the year in which an adjustment is requested.

(Code 2005, § 90-38; Ord. No. 2003-021, § 1(700.075), 2-10-2003; Ord. No. 2008-043, § 1, 4-16-2008; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2010-128, § 1, 11-23-2010)

Sec. 90-31. Classification of customers.

(a) *Findings.* The board hereby determines and finds that it is just, reasonable and necessary to classify the customers of the water and sewer system for the purpose of fixing rates and charges for such customers into five different customer groups:

- (1) Residential;
- (2) Commercial;
- (3) Industrial;
- (4) Eleemosynary; and
- (5) Governmental.

(b) *Purpose.* It is hereby declared to be the purpose of this section to classify customers of the water and sewer system and to establish reasonable rates and charges for use of the systems by such customers so as to provide revenues sufficient for the operation and maintenance of the systems; to pay principal of, premium, if any, and, as necessary and determined, interest on the bonded indebtedness of the systems.

(c) *Establishment of classifications of customers to be used in collection of monthly rates and charges.* The board hereby determines and prescribes that the customers of the systems be classified as follows:

(1) *Water classes.*

- a. Residential;
- b. Commercial;
- c. Industrial;
- d. Eleemosynary; and
- e. Governmental.

(2) *Sewer classes.*

- a. Residential;
- b. Commercial;
- c. Industrial;
- d. Eleemosynary; and
- e. Governmental.

The board hereby determines and prescribes this classification of customers constitutes a just and reasonable classification of customers to be used in apportioning the rate burden among the various customers of the treatment works.

(Code 1988, § 635.055; Code 1996, § 700.080; Code 2005, § 90-39; Ord. No. 719, §§ 1—3, 11-24-1986; Ord. No. 91-1, § 1, 1-14-1991)

Sec. 90-32. Establishment of rates.

The board, in accordance with the results of the public hearings, the recommendations of its consulting engineers and the estimated operational costs of the treatment works, hereby establishes just and reasonable rates and monthly charges to be used for the customers classifications established in section 90-31.

(Code 1988, § 635.056; Code 1996, § 700.090; Code 2005, § 90-40; Ord. No. 719, § 4, 11-24-1986)

Sec. 90-33. Monthly water rates.

The rate per water customer for service from the system shall be as provided in the city fee schedule.

(Code 1988, § 635.060; Code 1996, § 700.100; Code 2005, § 90-41; Ord. No. 719, § 5, 11-24-

1986; Ord. No. 91-2, § 1, 1-14-1991; Ord. No. 94-34, § 1, 3-28-1994; Ord. No. 95-101, § 1, 9-11-1995; Ord. No. 95-128, § 1, 11-13-1995; Ord. No. 2005-192, § 1, 10-24-2005; Ord. No. 2006-135, § 1, 9-25-2006; Ord. No. 2007-074, § 1, 8-13-2007; Ord. No. 2008-086, § 1, 9-8-2008; Ord. No. 2009-065, § 1, 9-22-2009; Ord. No. 2010-116, § 1, 10-26-2010; Ord. No. 2011-100, § 1, 10-25-2011; Ord. No. 2012-0172, § 1, 10-23-2012; Ord. No. 2013-0138, § 1, 10-8-2013; Ord. No. 2014-0104, § 2(90-41), 10-28-2014)

Sec. 90-34. Monthly sewer rates.

(a) The rate per sewer system customer for service from the system shall be assessed for each water connection where the water used and metered is processed through the city sewer system and shall be as provided in the city fee schedule.

(b) Any customer who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's sewer system, or any customer who discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the sewer system, shall pay for such increased costs. The charge to each such customer shall be as determined by the responsible plant operating personnel and approved by the board.

(Code 1988, § 635.070; Code 1996, § 700.110; Code 2005, § 90-42; Ord. No. 719, § 6, 11-24-1986; Ord. No. 91-2, § 2, 1-14-1991; Ord. No. 94-34, § 2, 3-28-1994; Ord. No. 95-101, § 2, 9-11-1995; Ord. No. 95-128, § 1, 11-13-1995; Ord. No. 2005-192, § 1, 10-24-2005; Ord. No. 2006-135, § 2, 9-25-2006; Ord. No. 2007-074, § 1, 8-13-2007; Ord. No. 2008-086, § 1, 9-8-2008; Ord. No. 2009-065, § 1, 9-22-2009; Ord. No. 2010-116, § 1, 10-26-2010; Ord. No. 2014-0104, § 2(90-42), 10-28-2014)

Sec. 90-35. Holding tank waste and special waste delivered by truck.

(a) The rate for acceptance of holding tank waste and special waste delivered by truck to the city sewer system, and the cost therefor, shall be as follows:

- (1) Holding tank waste with BOD (biochemical oxygen demand) tests values of zero to 600 mg/l shall be accepted upon the payment of a cost in the amount provided in the city fee schedule.
- (2) Special waste with BOD (biochemical oxygen demand) tests values of 600 mg/l to 10,000 mg/l shall be accepted upon the payment of a cost in the amount provided in the city fee schedule. Special waste is defined as septic tank waste and activated waste sludge from a package wastewater treatment plant.

(b) Waste with BOD (biochemical oxygen demand) test value greater than 10,000 mg/l will not be accepted.

(Code 2005, § 90-43; Ord. No. 2002-039, 4-22-2002; Ord. No. 2010-128, § 1, 11-23-2010; Ord. No. 2011-051, § 1, 5-24-2011)

Sec. 90-36. Connection of customers outside city limits.

(a) A water and sewer service connection agreement shall include, but not be limited to:

- (1) Proof of ownership of property.
- (2) Provisions for a petition to annex once the property becomes contiguous to the city. These provisions will be at the sole discretion of the board as to allow or deny the annexation. If there is a denial of the annexation by the board then the water and sewer service connection agreement shall have provisions to require the owner to petition to annex at any time requested by the city in the future.
- (3) Requirements for any development or construction on the property to be in full conformance with state statutes, city

ordinances, codes and regulations as described in the water and sewer service connection agreement.

- (4) Conditions for water or sewer connections to and service from city utilities.
- (5) Requirement that the water and sewer service connection agreement shall be recorded with the recorder of deeds.

(b) Contiguous and noncontiguous property outside the city limits requesting utilities connection. Customers outside the corporate limits of the city requesting connection to the city water or sewer system shall enter into a water and sewer service connection agreement. The customer shall submit and have approval of a water and sewer service connection agreement before any connection will be approved, unless modified by a valid intergovernmental agreement providing for alternative conditions of service. Approval of agreements will be submitted to the board for their review, or city administrator in accordance with subsection (g) of this section, and processed as required by code or statute.

(c) Any customer outside the city's corporate limits, directly or indirectly connected to the city water system, may be shut off or disconnected from water service if found to be in violation of city code.

(d) The city may require additional agreements to be executed prior to connection to city utilities. These agreements may include utilities reimbursement agreement and developer's agreement.

(e) Customers with properties under an approved water and sewer service connection agreement shall be charged outside city limit water or sewer rates while those services are provided and until the property is annexed. In certain cases where it may be beneficial to the city, the board is authorized to modify the water or sewer rate for said customers. The modified rate shall not exceed the outside city limit water or sewer rate established by city code and shall never be less than the established water or sewer rate for customers inside the city. Any rate

modification shall be identified in the water and sewer service connection agreement and shall only be allowed by board approval.

(f) Customers under water and sewer service connection agreements with private water wells, making connection to the sewer system, shall install an auto read water meter meeting city specifications for type and installation, prior to connection. The water meter shall be installed by the customer on the customer's water supply line in a pit outside of the home or facility.

- (1) The utilities department shall read the meter each month to obtain usage for sewer billing.
- (2) Customer shall be responsible for maintaining the meter in good working order. The city shall have the right through terms of the water and sewer service connection agreement to inspect the meter and verify accuracy. Any meter testing less than 95 percent accurate shall be replaced by the customer.
- (3) The customer shall follow city code, in regards to payment of sewer charges. If the customer account becomes delinquent, the city shall disconnect the water service at the meter in accordance with the city disconnect procedures.

(g) The city administrator is authorized to enter water and sewer service connection agreements with customers outside the city limits allowing water and sewer service connections to one- and two-family dwellings, as defined by the International Residential Code, and which do not require extension or expansion of the city's existing public infrastructure in order to make connection.

(Code 1988, § 635.075; Code 1996, § 700.120; Code 2005, § 90-44; Ord. No. 91-2, § 3, 1-14-1991; Ord. No. 99-665, § 7, 4-12-1999; Ord. No. 2005-087, § 1(700.120), 6-27-2005; Ord. No. 2011-051, § 1, 5-24-2011; Ord. No. 2012-0001, § 1, 1-10-2012; Ord. No. 2017-0046, § 2, 3-28-2017)

monthly as such services accrue. The finance director, or other official representative of the city designated to prepare and render bills for water and sewer services, shall calculate monthly the amount of each bill for water service and sewer service, and shall render monthly to each customer a combined bill for such water and sewer services based upon such monthly water meter readings or an averaging of such water bills between readings. All such bills for sewer and water services shall be due and payable at the office of the finance department during the regular hours of business from and after the date of the rendition thereof.

(b) It is necessary for the city to obtain water usage data from other public or private water systems when a city-sewer-only customer receives their water service from that public or private system. Any charges the city incurs from the public or private water system for the usage data shall be passed on to said customer through a water usage data fee, which shall be included with customer's monthly sewer bill.

(Code 1988, § 635.080; Code 1996, § 700.130; Code 2005, § 90-45; Ord. No. 483, § 4, 2-28-1977; Ord. No. 2013-0178, § 1, 11-26-2013)

Sec. 90-38. Late charge; disconnection for nonpayment of charges; disconnection at customer's request.

(a) Customers receiving city water and sewer service.

- (1) If any bill for water and sewer service shall remain due and unpaid from the due date thereof, a five percent late charge shall be added to the next month's bill for service.
- (2) At five days past due, a notification will be mailed to the customer stating the water service may be disconnected if payment is not received within 22 days of the due date.
- (3) If payment is not received on or before 15 days past due, a second notice will be sent by certified mail, hand-delivered, posted on the property, or delivered by a process server stating that the water

Sec. 90-37. Billing for services and water usage data.

(a) All water meters shall be read monthly or at any other periodically convenient time and bills for water and sewer services shall be rendered

service may be disconnected with no further notice if payment is not received after seven days of the date of second notice. A notification charge in the amount provided in the city fee schedule shall be assessed to the customer bill.

- (4) If payment is not received within notification timelines, the water service may be disconnected. Water service shall not be reconnected until the past-due bill for service is paid in full, together with the notification charge listed in subsection (a)(3) of this section, a disconnection service charge in the amount provided in the city fee schedule, and a reconnection service charge in the amount provided in the city fee schedule.
- (5) If the five percent late charge is not paid by the due date of the bill upon which the charge first appears, service to such customer shall be disconnected if the charge remains unpaid following the notification process described in subsections (a)(2), (a)(3) and (a)(4) of this section. Service shall not be reconnected until the five percent late charge is paid in full, together with the posting, disconnection and reconnection service charges listed in subsections (a)(3) and (a)(4) of this section.

(b) Sewer customers connected to other public or privately operated water systems.

- (1) If any bill for sewer service to customers connected to other public or private water systems shall remain due and unpaid from the due date thereof, a five percent late charge shall be added to the next month's bill for services.
- (2) Notifications for disconnection shall follow the same steps outlined in subsections (a)(2), (a)(3) and (a)(4) of this section if payment is not received. Actual disconnect schedule shall be determined by the water provider following city notifications.
- (3) If payment for sewer services is not received within the notification time-

lines, water service may be disconnected by the public or private water service provider. Water service shall not be reconnected until the past-due bill for services is paid in full, together with the notification charge described in subsection (a)(3) of this section and all actual costs charged to the city from the public or private service provider for the disconnection of service.

- (4) If the five percent late charge is not paid by the due date of the bill upon which the charge first appears, service to such customer shall be disconnected if the charge remains unpaid following the notification process described in subsections (a)(2), (a)(3) and (a)(4) of this section. Service shall not be reconnected until the five percent late charge is paid in full, together with the posting, disconnection and reconnection service charges listed in subsections (a)(3) and (a)(4) of this section.
- (5) When sewer charges are in arrears for more than three months and after the city sends notice to the customer, the city may disconnect the customer's sewer line until such time as the sewer charges and all related costs are paid.
 - (c) A fee in the amount provided in the city fee schedule for a water meter disconnect and a fee in the amount provided in the city fee schedule for a reconnection may be charged, when this service is requested by the customer. (Code 1988, § 635.090; Code 1996, § 700.140; Code 2005, § 90-46; Ord. No. 483, § 5, 2-28-1977; Ord. No. 590, § 2, 7-13-1981; Ord. No. 98-017, § 1, 2-23-1998; Ord. No. 2001-008, § 2, 1-22-2001; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2013-0178, § 1, 11-26-2013; Ord. No. 2022-0022, § 2, 3-8-2022; Ord. No. 2023-0119, § 2, 10-10-2023)

Sec. 90-39. Supplying water to other premises; free service generally; free service to city.

Water service shall be supplied only through water meters installed and meeting the city's

specifications, and only one connection shall be permitted to each water meter. No free water service or sewer service shall be furnished to any premises or the owner or occupant thereof, except to the city itself, other provisions of this article notwithstanding, and if the revenues derived by the city from its combined water and sewer system shall at any time prove insufficient to pay the costs of maintenance and operation thereof, and to pay the interest on and principal of the combined water and sewer system revenue bonds of the city issued to construct, extend or improve such system or any part thereof, and to establish and maintain reasonable reserves as provided in the ordinances authorizing the issuance of such bonds, then the city will thereafter pay a fair and reasonable charge for all water and sewer services furnished by the city or any of its departments by the combined water and sewer system, and such payments will continue so long as such payments may be necessary in order to prevent any default in the payment of the interest on or principal of the city, or while any such default shall exist.

(Code 1988, § 635.100; Code 1996, § 700.150; Code 2005, § 90-47; Ord. No. 483, § 8, 2-28-1977)

Sec. 90-40. Damaging or tampering with system; unauthorized connections.

(a) No unauthorized person shall tamper with any water main, water meter, or sewer line, make any connection to the combined water and sewer system of the city, without written permission from the city, or reconnect service when service has been discontinued for nonpayment of a bill for service until such bill, including the reconnection charge, has been paid in full.

(b) No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the municipal water or sewer system. Any person violating provisions in this section shall be subject to pay the actual costs of repairs for damages incurred along with any other penalties.

(Code 1988, § 635.110; Code 1996, § 700.160; Code 2005, § 90-48; Ord. No. 345, § 11, 6-14-1965; Ord. No. 483, § 9, 2-28-1977; Ord. No. 2010-128, § 1, 11-23-2010)

Sec. 90-41. City administrator's authority to make adjustments.

The city administrator is authorized to make adjustments for circumstances and situations that may arise, which are not clearly defined or addressed by this chapter. Such adjustments shall be in writing and reported to the board. These adjustments include waiver of water and sewer penalties in existence prior to September 1, 2022, deemed uncollectable based on the customer's ability to pay. Such customer must be willing to enter into an agreement to pay all outstanding usage fees plus a five percent finance charge per annum, calculated on the outstanding usage balance. After September 1, 2022 the city administrator is authorized to waive water and sewer penalties within reason up to \$1,000.00 for situations deemed appropriate by committee of the utilities and finance directors.

(Code 1988, § 635.115; Code 1996, § 700.170; Code 2005, § 90-49; Ord. No. 719, § 11, 11-24-1986; Ord. No. 2010-128, § 1, 11-23-2010; Ord. No. 2023-0119, § 2, 10-10-2023)

Sec. 90-42. Temporary water meter use.

(a) A deposit and rental fee, in the amount provided in the city fee schedule, shall be charged for customers needing the use of a temporary water meter for use in construction, filling swimming pools and other applications. Charges include use of meter and assembly (adaptors, valves and backflow device). The deposit shall be returned to the customer upon return of the complete meter and assembly in working condition. The deposit or a portion of the deposit shall be retained by the city to cover any cost of damages to the unit.

(b) Water and sewer charges, as required, shall be assessed at the respective rate as established in this article for metered water usage on the temporary meter.

(Code 2005, § 90-49A; Ord. No. 2010-128, § 1, 11-23-2010; Ord. No. 2013-0178, § 1, 11-26-2013)

Sec. 90-43. Reserved.

Editor's note—Ord. No. 2023-0130, § 2, adopted Nov. 14, 2023, deleted § 90-43 entitled "Introduction of fluoride

into public water supply," which derived from: Code 1988, § 635.117; Code 1996, § 700.180; Code 2005, § 90-50; and Ord. No. 92-1, §§ 1, 2, adopted Jan. 14, 1992.

Sec. 90-44. Drilling or use of water wells.

(a) *Domestic wells.*

- (1) The drilling or use of individual groundwater wells within the city limits for domestic use related to consumption or whole body contact is prohibited.
- (2) Exceptions are as follows:
 - a. On parcels of land owned by the city.
 - b. Any such well in use on or before March 25, 2002, may continue in use for domestic purposes so long as the well is regularly operated and maintained. Any such domestic use water well which ceases to be used for a period of 30 days shall be deemed closed and shall be properly abandoned within 90 days following notice from the planning and development department. Abandonment of such well shall be in accordance with standards of the state department of natural resources.
 - c. Such wells meeting the following exceptions may remain in use if operation is ceased beyond a 30-day period:
 1. Wells on properties which are intermittently occupied

throughout the year, however said well is utilized when the property is occupied.

2. Wells on unoccupied properties listed for sale.
3. Wells may be converted to irrigation use only if all requirements of irrigation wells of this section can be met.
- d. When a private or publicly owned water supply company or district desires to drill a water supply well within the city limits and within the water supply company or district certificated area, the city may, at its sole discretion, allow the drilling of a water supply well on the property, subject to an agreement specifically for the approval of the well, that sets forth and establishes criteria and restrictions to protect the interests of the city.

(b) *Irrigation wells.* The drilling or use of individual groundwater wells within the city limits for the purpose of irrigation shall be allowed under the following conditions and restrictions:

- (1) Well shaft shall be six inches or less in diameter.
- (2) Well shaft drill depth shall be limited to an elevation of 200 feet above sea level.
- (3) Well pump setting depth shall be limited to 300 feet above sea level.
- (4) Water production from the well shall be 70 gallons per minute or less.
- (5) Well shall be 1,000 feet or greater in horizontal distance based on latitude and longitude coordinates from any groundwater well owned by the city or water supply company/district or other existing private well located within the city limits.
- (6) Well shall only be allowed on parcels equal to or greater than five acres with

at least two acres designated as landscaped green space, school campuses and golf courses.

- (7) Well to be located within the city limits and within a certificated area of a water company or district shall require approval for construction from the city. The water company or district of the certificated area shall be given 30 days from the date of application for well construction to provide comment to the city regarding any concern for the construction of said well. The city shall consider any comments provided in its determination to allow or deny the well request.
- (8) Well use shall be restricted or discontinued as required to meet compliance of article IV, division 2 of this chapter.
- (9) Well shall be metered and an annual water production report shall be submitted to the city in the month of January each year.
- (10) All city water connections to premises with an individual groundwater irrigation well shall be equipped with a city-approved reduced pressure principle backflow prevention device, supplied by the owner, as required by the state department of natural resources.
- (11) Connections between irrigation well piping and domestic plumbing located on the premises is prohibited.
- (12) Well design, placement and construction shall be approved and permitted by the state department of natural resources. Permit records approved by the state department of natural resources shall be provided to the city by the owner.
- (13) Well shall require approval and permitting through the planning and development department for construction and operation.
- (14) An operating permit for each well allowed shall require annual renewal by the month of March each year to allow for continued operation.

- (15) Any failure by the owner to correct any violation of this chapter within 30 days shall result in immediate closure of the operating permit and discontinuation of well use.
- (16) Irrigation wells may continue in use so long as the well is regularly operated and maintained. Any irrigation well which ceases to be used for a period of 18 months shall be deemed closed and shall be properly abandoned within 90 days following notice from the planning and development department. Abandonment of such well shall be in accordance with standards of the state department of natural resources.
- (17) Existing irrigation wells in use on or before March 25, 2002, which may not meet all the requirements of this section may remain in use so along as the use of said well is not ceased for a period of 18 months.

(Code 2005, § 90-51; Ord. No. 2002-025, § 1, 3-25-2002; Ord. No. 2008-044, § 1, 4-16-2008; Ord. No. 2012-0070, § 1, 6-12-2012)

Sec. 90-45. Budget procedures.

Budget procedures will be in accordance with chapter 2.

Sec. 90-46. Water supply agreements authorized.

(a) Upon approval by the board, water supply agreements for the purpose of supplying municipal water to a private or public water supply company are authorized. The water rate to be charged pursuant to a water supply agreement shall be appropriate and fair and always in greater sum than the rate charged to city customers.

(b) Any such water supply agreement shall require the water company to terminate water service at the direction of the finance director for any customer who has failed to pay the customer's city sewer account, and to discontinue water service until such time as the sewer charges and all related costs are paid to the city.

(c) When charges for sewer services are in arrears for more than three months, the finance director shall send to the customer by certified mail notice of the past due account and its amount, and the date the water company shall be directed to terminate water services.

(d) The finance director shall reimburse the water company for the costs of the requested disconnection of water services.

(Code 2005, § 90-54; Ord. No. 2001-118, 9-10-2001)

Sec. 90-47. Water service plumbing permit.

(a) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public water main or appurtenance thereof without first obtaining a written permit from the utilities director.

(b) There shall be two classes of water service plumbing permits:

- (1) For residential service; and
- (2) For service to commercial or industrial establishments.

In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the utilities director. An inspection fee in the amounts provided for in the city fee schedule for a residential water service plumbing permit or for an industrial or commercial water service plumbing permit shall be paid to the city at the time the application is filed.

(Ord. No. 2015-0187, § 2, 12-15-2015)

Secs. 90-48—90-69. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL

DIVISION 1. GENERALLY

Sec. 90-70. Discharging sewage to natural outlets.

(a) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or

other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this article.

(b) Upon notification by the city to a property owner or occupant allowing an unlawful discharge to occur from their building sewer or building drain, the property owner or occupant shall immediately and completely cease said discharge. Failure to immediately cease the discharge shall be a violation of this Code and punishable pursuant to section 1-13.

(c) If the property owner or occupant continues to allow or cause the unlawful discharge, water service shall be terminated to the property.

(d) Water service shall remain terminated until the property owner or occupant seals the faulty sewer component and the discharge is completely ceased.

(e) The property owner or occupant shall permanently repair or replace, within 30 days of notice to cease an unlawful discharge, any faulty section(s) or components of the property building sewer or building drain. Any section of the property building sewer or building drain not meeting current applicable rules, specification and regulations of the city for building sewers or building drains shall be brought up to current required standards. Failure to make such repairs, replacements or corrections shall be a violation of this Code and punishable pursuant to section 1-13.

(Code 1988, § 515.030; Code 1996, § 710.030; Code 2005, § 90-83; Ord. No. 491, art. II, § 2, 5-9-1977)

Sec. 90-71. Sanitary sewer provisions and connections required.

The owner of all existing houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the city and abutting on any street, alley, public water or sewer easement or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner's expense to install toilet facilities therein, and to connect such facilities directly with the proper public sewer in

accordance with the provisions of this article, within 90 days after date of official notice to do so.

(Code 1988, § 515.080; Code 1996, § 710.080; Code 2005, § 90-84; Ord. No. 491, art. II, § 4, 5-9-1977)

Sec. 90-72. Maintenance of 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 the owner's expense.

(Code 1988, § 515.140; Code 1996, § 710.140; Code 2005, § 90-85; Ord. No. 491, art. V, § 7, 5-9-1977)

Sec. 90-73. Control manholes.

When required by the utilities director, the owner of any property served 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 accessibly and safely located, and shall be constructed in accordance with plans approved by the utilities director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

(Code 1988, § 515.150; Code 1996, § 710.150; Code 2005, § 90-86; Ord. No. 491, art. V, § 8, 5-9-1977; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-74. 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 the control

manhole. If 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 sewer system 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 the 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.)

(Code 1988, § 515.160; Code 1996, § 710.160; Code 2005, § 90-87; Ord. No. 491, art. V, § 9, 5-9-1977)

Sec. 90-75. Special agreements for acceptance of industrial waste.

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.

(Code 1988, § 515.170; Code 1996, § 710.170; Code 2005, § 90-88; Ord. No. 491, art. V, § 10, 5-9-1977)

Sec. 90-76. Rights, duties and liability concerning entry by city employees.

(a) The utilities director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The utilities director 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.

(b) While performing the necessary work on private properties referred to in subsection (a) of this section, the utilities director, 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 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 in section 90-73.

(c) The utilities director and other duly authorized employees of the city bearing proper credentials and identification 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 sewer or water system lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1988, § 515.180; Code 1996, § 710.180; Code 2005, § 90-89; Ord. No. 491, art. VII, §§ 1—3, 5-9-1977; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-77. Separation of water and sewer lines.

(a) It shall be unlawful to place any pipe or conduit which carries or is intended to carry sewage in the same trench or ditch with a pipe or conduit which carries or is intended to carry a potable water supply. In every case where water and sewer lines are parallel, the water line shall be at least ten feet horizontally from the sewer line. The distance of separations shall be measured edge to edge horizontally.

(b) Sewers crossing water mains shall be laid to provide a minimum vertical distance of 18 inches between the outside of the water main and the outside of the sewer. This shall be the

case where the water main is either above or below the sewer. The crossing shall be arranged so that the sewer joints will be equidistant and as far as possible from the water main joints. Where a water main crosses under a sewer, adequate structural support shall be provided for the sewer to maintain line and grade.

(c) Manholes shall be located at least ten feet horizontally from any existing or proposed water main.

(d) Where it is not possible to meet the conditions in subsections (a), (b) or (c) of this section, the installation may be varied if in accordance with specifications outlined by the state department of natural resources, the state department of health and the city design criteria for installation of public or private water and sewer pipes. (Code 1988, § 515.190; Code 1996, § 710.190; Code 2005, § 90-90; Ord. No. 344, § 6, 6-14-1965)

Sec. 90-78. Removal of connection or disturbing sewer line.

No person shall remove, for any purpose, any connection, or disturb any line, for the purpose of relieving stoppage, to a point closer than four feet of any public sewer, except by permission of, and under the supervision of, the utilities director.

(Code 1988, § 515.220; Code 1996, § 710.220; Code 2005, § 90-91; Ord. No. 189, §§ 5—7, 7-6-1938; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-79. Sanitary dump stations.

(a) A commercial sewer customer may construct a sanitary dump station for the convenience of their customers.

(b) The construction must be approved by the utilities director after application for such construction and submittal of plans. Dump stations shall be constructed generally in accordance with the plans and specifications as approved by the utilities director.

(c) Sanitary dump stations may not be constructed within 500 feet of a residential unit or other sites where, in the opinion of the utilities director, construction of a dump station would adversely affect the environment of the

area. If a dump station construction permit is denied, the owner/operator may appeal the decision to the board, whereupon it shall hold a public hearing on the matter and either uphold or reject the decision of the utilities director.

(d) The sewer service charge for each approved dump station shall be in the amount provided in the city fee schedule per year, payable each May 1. The service charge shall be credited to the revenue of the sewer department.

(e) Nonpayment of the annual charge shall result in termination of water service to the business, following the notification process outlined in section 90-38.

(f) For the protection of the health, safety and welfare of the public, no existing sanitary dump station is exempt from these regulations and the utilities director is hereby directed to proceed with bringing existing stations into compliance with these prescribed regulations.

(Code 1988, § 515.230; Code 1996, § 710.230; Code 2005, § 90-92; Ord. No. 670, §§ 1—5, 1-14-1985; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-80. Sewer excavations.

(a) No person shall make or cause to be made any excavation around or under any public or district sewer, make any excavation for the purpose of connecting any building sewer therewith, or construct any private sewer or building sewer in, through or under any street, alley, sidewalk, parkway or other public place in the city, or make any excavations therefor, without a building or sewer connection permit therefor being first obtained from the utilities department, which building or sewer connection permit shall not be issued until the applicant has complied with sections of this article requiring a bond. Work under such building or sewer connection permit shall be signed by the person who desires to do the work, and such application shall not be assignable. No person shall allow their name to be used to obtain a building or sewer connection permit for any other person. The application for such building or sewer connection permit shall meet requirements of sections 90-130 and 90-131.

(b) Before any building or sewer connection permit referred to in this section shall be issued, the applicant for each building or sewer connection permit shall deposit with the finance department a bond in the sum of \$500.00, approved by the finance department, and conditioned that the principal thereto, in constructing such sewer or excavating for the purpose of constructing the sewer with the public, district or private sewer shall faithfully comply with all provisions of the city plumbing code or any other applicable regulations thereto. If any work done under a building or sewer connection permit, as provided for in this section, shall be improperly done and in violation of any of the provisions of the city plumbing code or any other applicable regulations, or cause damage to any public sewer, the utilities department shall have the right to reconstruct such defective work and repair such damage, and the cost thereof may be recovered against such person in any court of competent jurisdiction in a suit on the person's bond; provided that the utilities department in such event may refuse to grant any further building or sewer connection permit until all improper and defective work done by such person shall have been repaired and all expenses which may have been caused to the city by reason of its having to reconstruct such defective work or repair such damage shall have been paid.

(c) It shall be the responsibility of the person or their contractor to whom such permits are issued, to keep all required permits on the premises where the work is being performed until such time as the work is completed. The utilities department shall inspect all plumbing following 24 hour notice, weekends and public holidays excluded. All work must be left uncovered and convenient for inspection and approval.

(Code 1988, § 515.240; Code 1996, § 710.240; Code 2005, § 90-93; Ord. No. 526, §§ 1, 2, 7-31-1978; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-81. System connection charges.

A system connection charge (SCC) is a charge assessed to a customer as outlined in the city fee schedule for use of capacity in the city water or sewer system. All required system connection charges as described in the city fee schedule

shall be based on the water meter size serving the property and the customer classification. Non-typical meter sizes not included in any classification shall be charged a system connection charge calculated for water or sewer using a weighting factor as provided in the city fee schedule.

- (1) *Use, recording and deposit of funds.* Funds collected in accordance with this section shall only be used for the specific purpose of water or sewer infrastructure construction, upgrades and expansions. The balance of funds shall be invested in accordance with state law to earn the maximum allowable interest.
- (2) *System connection charges assessed.* System connection charges for water or sewer shall be assessed when:
 - a. A new property connection is made to city water or sewer;
 - b. A property previously connected to city water or sewer requires an additional or larger water meter than previously required to accommodate demand; or
 - c. Use on a property previously connected to city water or sewer is changed to a higher classification requiring a higher system connection charge. Properties converting from residential to a short-term rental will not be charged a new connection fee.
- (3) *Credits for properties with existing water or sewer service.* Credits shall be provided as follows:
 - a. Properties with existing city water or sewer connections will be provided a system connection charge credit based on the size of the existing water meter serving the property and the customer classification as described in this section or for an amount paid for a prior sewer capacity fee, whichever is greater.
 - b. The credit described in subsection (3)a of this section shall be subtracted

from system connection charges assessed if an existing water meter is replaced with a larger size meter for a property previously connected to city water or sewer or if the use on a property previously connected to city water or sewer is changed to a higher classification requiring a higher system connection charge.

(Code 1996, § 710.300; Code 2005, § 90-94; Ord. No. 658, §§ 1—4, 8-13-1984; Ord. No. 95-046, § 1, 5-8-1995; Ord. No. 97-081, § 1, 1-12-1998; Ord. No. 99-668, § 1, 4-12-1999; Ord. No. 2001-005, §§ 1—3, 1-8-2001; Ord. No. 2001-078, § 1, 7-9-2001; Ord. No. 2002-085, § 1, 7-8-2002; Ord. No. 2002-111, 9-9-2002; Ord. No. 2006-032, § 1, 3-13-2006; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2013-0165, § 1, 11-19-2013; Ord. No. 2014-0105, § 2(90-94), 10-28-2014; Ord. No. 2024-0019, § 3, 3-12-2024; Ord. No. 2024-0087, § 4, 10-8-2024)

Secs. 90-82—90-105. Reserved.

DIVISION 2. PRIVATE SYSTEMS

Sec. 90-106. Generally.

Except as provided in this article, 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. (Code 1988, § 515.040; Code 1996, § 710.040; Code 2005, § 90-121; Ord. No. 491, art. II, § 3, 5-9-1977)

Sec. 90-107. Use required when public system not available; standards; abandonment and connection to public sewer.

(a) Private sewage disposal systems, including holding tanks, shall not be installed for new construction within the city limits.

(b) Existing private sewage disposal systems located on parcels inside the city limits, installed before adoption of this Code section, may remain in use as long as the system is functioning properly as determined by the state department of health and the state department of natural

resources, the system remains in compliance with all other provisions of this Code and the property use does not change.

(c) Property owners with existing private sewage disposal facilities shall operate the facilities in a sanitary manner at all times, at no expense to the city.

(d) Existing private sewage disposal systems which have failed as determined by the state department of health, the state department of natural resources or any other provisions of this Code, shall be cleaned of sludge, removed and properly abandoned and any occupied structures shall be connected to city sewer.

(e) At such time as a public sewer becomes available within 100 feet of a property served by an existing private sewage disposal system a direct connection shall be made to the public sewer within 90 days of notification by the city, and any private sewage disposal facilities, whether functioning properly or failed, shall be cleaned of sludge, removed, and properly abandoned, by pumping and disposing of all contents, excavating and removing any basin or tanks or abandon in place by breaking basin or tank floors, collapsing basin or tank tops and filling voids with gravel material.

(f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the state department of natural resources or the state department of health.

(Code 1988, § 515.090; Code 1996, § 710.090; Code 2005, § 90-123; Ord. No. 491, art. III, §§ 1, 4—8, 5-9-1977)

Secs. 90-108—90-129. Reserved.

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

Sec. 90-130. Building sewer permit.

(a) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the utilities director.

(b) There shall be two classes of building sewer permits:

- (1) For residential service; and
- (2) For service to commercial or industrial establishments.

In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the utilities director. A permit and inspection fee in the amounts provided for in the city fee schedule for a residential building sewer permit and for an industrial or commercial building sewer permit shall be paid to the city at the time the application is filed.

(Code 1988, § 515.060; Code 1996, § 710.060; Code 2005, § 90-141; Ord. No. 491, art. IV, §§ 1, 2, 5-9-1977; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2013-0178, § 1, 11-26-2013)

Sec. 90-131. Standards for building sewers; payment of costs.

(a) All costs and expenses incident to the installation and connection of the building sewer, as well as all costs and expenses incident to the maintenance, operation, replacement and repair 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, connection, maintenance, operation and repair of the building sewer.

(b) 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 parcel and no public sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building that is owned by the same owner, and the whole considered as one building sewer.

(c) Existing building sewers may be used in connection with new building construction only when they are found, on examination and test by the utilities director, to meet all requirements of

this article, applicable rules, specifications and regulations of the city for building sewers. Existing building sewers being connected to existing buildings, campgrounds, or other existing infrastructures, being requested for connection to public sewer may be allowed to connect if found to be in compliance with all applicable rules, specifications and regulations of the city for building sewers. The following variations in pipe material types for existing building sewers may be approved for connection by the utilities director in existing systems which meet all testing and code requirements: SDR-35, SDR-21, PVC pipe schedule 40 or greater.

(d) The size, slope, alignment, materials of construction, methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench for a new or replaced building sewer, shall conform to the following requirements, applicable rules, specifications and regulations of the city for building sewers.

- (1) Minimum four-inch schedule 40 PVC solid wall pipe (no cellular core allowed).
- (2) Minimum 18 inches of cover from top of pipe to finished grade.
- (3) Install three-quarter to one-inch clean rock, a minimum of three inches below the pipe and six inches above pipe. Backfill to finish grade with zero to two-inch rock, dirt, sand, etc., in nontraffic rated areas. Trench width for all installations shall be a minimum of three times the diameter of the pipe.
- (4) Any street excavation or traffic rated areas shall be completely backfilled with three-quarter to one-inch clean rock. Any public street excavation requires the contractor to obtain a permit from the city's engineering department. Street restoration and pavement repairs must be in accordance with the city's engineering department street repair specifications.
- (5) Ninety-degree ells or sweeps are prohibited.
- (6) Furgcos or "no-hubs" on PVC to PCV pipe connections are prohibited.

- (7) Bell and spigot pipe must be installed with the spigot end facing downstream.
- (8) A cleanout is required within five feet of the building or structure, then located every 50 feet for a single sweep cleanout or 100 feet for two-way sweep cleanouts. All portions of the sewer line shall be reachable within 50 feet of cleanout. Cleanouts shall extend to finished grade with appropriate cap. A cleanout meeting the specifications called out in the city's Technical Specifications Standard Detail Drawings is required to be located at the edge of the road right-of-way or permanent easement.
- (9) Saddle connections to the sewer main shall meet the specifications called out in the city's Technical Specifications Standard Detail Drawings.
- (10) Manhole connections are allowed when the sewer main is ten feet in depth or greater. Must be made with an approved "A-Lok" type gasket or an approved equal. Must provide an inside drop with a tee installed in the direction of flow and an adequate number of stainless steel pipe clamps to fasten the drop to the manhole wall. See city's Technical Specifications Standard Detail Drawings.
- (11) When crossing public water mains install sewer service with 18-inch minimal separation. If 18-inch separation is not obtainable, a four-inch thick by 18-inch wide by ten feet long concrete slab must be poured between the sewer service and public water main. The concrete slab shall be positioned along the sewer service five feet each side of where the sewer service crosses the public water main. Joints of the sewer service shall be located a minimum of five feet from the public water main crossing.
- (12) When crossing a drainage ditch in solid rock the sewer service shall be entrenched with a minimum of 12 inches of cover and a six-inch concrete cap placed at the top of the trench. When crossing drainage ditch in materials other than rock the service shall have a minimum 18 inches of cover and encased in concrete a minimum of six inches around the pipe. Concrete caps and encasements shall extend five feet beyond the drainage ditch width.
- (13) Sewage and grinder pumps shall have the capacity and head for the application requirements. The pumping system shall be equipped with an audio and visual alarm located on the outside of the building. Sewage or grinder pumps may be used when connecting to a gravity sewer system. Grinder pumps shall be used when connecting to a low pressure sewer system. When sewage or grinder pumps are used for residential use, one pump unit installations are acceptable. When sewage pumps or grinder pumps are used for commercial use, a duplex pump system shall be installed. Sewage and grinder pumps shall be located outside of the building wall. When connecting to a low pressure sewer system there shall be a shut off valve located on the service line as close to the main connection as possible. Position of the valve shall be approved prior to installation.
- (14) Prior to backfilling a visual inspection and pressure test shall be made. For gravity building sewers the pressure test can be either an air test of five psi for 15 minutes or a water column test of ten feet of head for 15 minutes. Low pressure force line test shall be 25 psi for 15 minutes.
- (15) When the customer's water source is a private well the customer shall install a water meter that complies with the city specifications. The meter shall be installed on the water supply line in a pit outside of the home or facility and shall comply with city specifications for installation. The water meter shall be installed and approved before a sewer connection permit can be issued. The city will read the meter each month to obtain the usage for sewer billing. Customer is also responsible

for maintaining the meter in good working order. The city shall have the right to inspect the meter and verify ac-

curacy of the meter. The customer must follow city ordinance in regards to payment of sewer bill. If the account becomes delinquent, the city has the right to lock or pull the meter or disconnect the sewer line. To restore service the customer shall be required to pay applicable delinquency charges and reimburse the city. This applies to the current property owner and any future assignees.

- (16) Trace wire is required to be installed with the sewer service when the service is installed within a road right-of-way or permanent easement. The trace wire must meet the specifications listed in the city's Technical Specifications for Public Improvement Projects.

In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specification of the America Society for Testing and Materials (ASTM) or plumbing code shall apply.

(e) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(f) The connection of the building sewer into the public sewer shall conform to the requirements of the plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the utilities director before installation.

(g) The applicant for the building sewer permit shall notify the utilities director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the utilities director.

(h) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. OSHA standards for excavation and pipe instal-

lation shall be followed. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(i) Property owners shall procure any necessary easements for their building sewers that extend onto or across neighboring properties for access to public sewers. A copy of the recorded easement shall be provided to the city prior to the issuance of a permit for connection to the public sewer.

(Code 1988, § 515.100; Code 1996, § 710.100; Code 2005, § 90-142; Ord. No. 491, art. IV, §§ 3—7, 9—11, 5-9-1977; Ord. No. 89-30, § 1, 8-14-1989; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2010-128, § 1, 11-23-2010)

Secs. 90-132—90-160. Reserved.

DIVISION 4. DISCHARGE RESTRICTIONS

Sec. 90-161. Roof and surface water.

(a) *Connection of building drain to sources of runoff.* 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.

(b) *Discharge of unpolluted water to sanitary sewer.*

(1) No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including drainage from interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the planning director. Industrial cooling water or unpolluted process waters may be

discharged, on approval of the planning director, to a storm sewer or natural outlet.

(c) *Inspection of method of drainage.* The utilities director shall make an inspection of the method of disposing of roof and other stormwater drainage from each building which is connected to the sanitary sewers of the city as frequently as is necessary to secure compliance with this section. Following each inspection, the utilities director shall submit a list of all property owners whose properties have connections in violation of this section to the city. Written notification of any violation of this section shall then be given by the utilities director to the owner of property upon which the violation occurs. If the provisions of this section have not been complied with within the period of 30 days following the date of notice of violation, the city shall have the right to make, or have made, such alterations as are deemed necessary by the utilities director to meet the requirements of the section, and all costs thereof shall be provided for or defrayed by a special tax bill to be assessed in favor of the city against the property on which such improvements are made and such special tax bill shall become a lien on such property.

(Code 1988, § 515.070; Code 1996, § 710.070; Code 2005, § 90-161; Ord. No. 344, § 10, 6-14-1965; Ord. No. 491, art. IV, § 8, art. V, §§ 1, 2, 5-9-1977; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-162. Prohibited discharges.

(a) 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, cyanide 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 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewer system.
- (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 sewer system such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (5) Any waters or wastes:
 - a. Having a five-day BOD greater than 300 parts per million by weight;
 - b. Containing more than 350 parts per million by weight of suspended solids; or
 - c. Having an average daily flow greater than two percent of the average sewage flow of the city;

shall be subject to the review of the utilities director. Where necessary, in the opinion of the utilities director, the owner shall provide, at his expense, such preliminary treatment as may be necessary to: reduce the biochemical oxygen demand to 300 parts per million by weight; reduce the suspended solids to 350 parts per million by weight; or control the quantities and rates of discharge of such waters or wastes.

Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the utilities director and no construction of such facilities shall be commenced until such approvals are obtained in writing.

(b) 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 utilities director that such wastes can harm either the sewers, sewage treatment process, or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. To determine acceptability, the utilities director 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, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in 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, 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).
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the utilities director.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant exceeds the limits established by the utilities director for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the utilities director as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the utilities director in compliance with applicable state or federal regulations.
- (8) Any waters or wastes having a pH in excess of 10.5.
- (9) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment plant.
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in this chapter.
- (10) 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.

(Code 1988, § 515.110; Code 1996, § 710.110; Code 2005, § 90-162; Ord. No. 491, art. V, §§ 3, 4, 5-9-1977; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-163. Powers of utilities director concerning discharge of restricted 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 90-162(b), and which in the judgment of the utilities director may have a deleterious effect upon the sewer system, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the utilities director may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 90-75.

(b) If the utilities director 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 utilities director, and subject to the requirements of all applicable codes, ordinances and laws.
 (Code 1988, § 515.120; Code 1996, § 710.120; Code 2005, § 90-163; Ord. No. 491, art. V, § 5, 5-9-1977; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-164. Fats, oils, and grease management program.

A certain document, three copies of which are on file in the office of the city clerk, being marked and designated as the "Fats, Oils, and Grease Management Program," is hereby adopted as the code of the city for the control of the introduction of fats, oils, and grease into the sanitary sewer system is hereby referred to, adopted and made a part hereof as if fully set out in this chapter.
 (Code 1988, § 515.130; Code 1996, § 710.130; Code 2005, § 90-164; Ord. No. 491, art. V, § 6, 5-9-1977; Ord. No. 2005-016, § 1(710.130), 2-28-2005)

Secs. 90-165—90-181. Reserved.

DIVISION 5. CLEANING AGENTS

Sec. 90-182. Exemptions.

This article 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.
- (7) Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.

(Code 1988, § 515.260; Code 1996, § 710.260; Code 2005, § 46-472; Ord. No. 92-72, § 2, 11-9-1992)

Sec. 90-183. Restrictions.

(a) Except as provided in section 90-182, no person shall use, sell, manufacture, distribute or dispose of within the city any cleaning agent that contains more than 0.0 percent phosphorus by weight expressed as elemental phosphorous except for an amount not exceeding 0.5 percent phosphorus that is incidental to manufacturing.

(b) No person shall use, sell, manufacture, distribute or dispose of within the city any cleaning agent used in a dishwashing machine, whether commercial or household, that exceeds 8.7 percent phosphorus by weight.

(Code 1988, § 515.270; Code 1996, § 710.270; Code 2005, § 46-473; Ord. No. 92-72, § 3, 11-9-1992)

Sec. 90-184. Seizure of products in violation.

The city may seize any cleaning agent held for sale, distribution, or use in violation of this division. The seized cleaning agents are considered forfeited.

(Code 1988, § 515.280; Code 1996, § 710.280; Code 2005, § 46-474; Ord. No. 92-72, § 4, 11-9-1992; Ord. No. 2009-097, § 1, 12-8-2009)

Secs. 90-185—90-200. Reserved.**DIVISION 6. COST ALLOCATION AND RECOVERY****Sec. 90-201. Purpose.**

It is determined and declared to be necessary and conducive to the protection of the public health, safety, and welfare and convenience to the city to collect charges from all customers who use the city water service or contribute sewage to the city's sewer system. The proceeds of such charges so derived will be used for the purpose of operating and maintaining the public treatment works. (Code 1988, § 640.010; Code 1996, § 705.010; Code 2005, § 90-181; Ord. No. 649, art. I, 5-29-1984)

Sec. 90-202. Disbursement of customer charges.

(a) The customer charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance, including replacements, which the city may, by ordinance, designate to be paid by the customer charge system. That portion of the total customer charge which is designated for operation and maintenance, including replacement of the treatment works, shall be as established by this article.

(b) That portion of the total customer charge collected which is designated for operation and maintenance, including replacement purposes, shall be deposited in a separate nonlapsing fund known as the operation, maintenance and replacement fund and will be kept in one primary account as follows: an account designated for the specific

purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works ("Operation and Maintenance Account").

(c) Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in subsequent fiscal years, and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance, and replacement fund shall be returned to the respective accounts upon appropriate adjustment of the customer charge rates for operation, maintenance and replacement. The customer charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

(Code 1988, § 640.030; Code 1996, § 705.030; Code 2005, § 90-183; Ord. No. 649, art. III, 5-29-1984)

Sec. 90-203. Utilities reimbursement agreements.

(a) The board is authorized to enter into utilities reimbursement agreements with persons who construct or finance the construction of sewer or water infrastructure which shall, at the city's discretion, become property of the city, and which is oversized or extended to serve areas larger than the needs of the immediate development. The city is authorized to collect a utilities reimbursement connection fee for actual construction costs, including an appropriate inflation factor, from persons who connect to such sewer or water infrastructure, for reimbursement as set forth in this section.

(b) Entering a utilities reimbursement agreement shall be at the discretion of the persons constructing or financing the infrastructure unless required by the city. A written request to the city engineer shall be submitted prior to obtaining a final construction permit.

(c) Reimbursement payments shall be paid to the city at the time other standard city fees are paid and prior to any connections being made to the said infrastructure. The city will then reimburse such payments to persons who entered into

the utilities reimbursement agreement. Nothing contained in this section shall be construed to create any liability for the city for failure to collect such reimbursement fees, but the contracting party shall be expressly authorized to act in the contracting party's own name to institute legal action against any person liable for such nonpayment.

(d) The reimbursement agreement term shall be for a set period of years to be determined at the time the agreement is executed or until the oversized or extended capacity of the said infrastructure is used.

(e) Notwithstanding the foregoing, no such utilities reimbursement fee, as described in this section, shall be required or collected from any

customer connecting to sewer or water infrastructure built with government or other public funds.

(f) Utilities reimbursement agreements shall be recorded with the recorder of deeds and shall be in full force and binding for the determined number of years or until the oversized or extended capacity of the said infrastructure is used.

(g) Connections to said sewer infrastructure shall be based on cost of components downstream of the customer's point of connection and the design engineers projected sewer flows.

(h) Connections to said water infrastructure shall be based on cost of components to the customer's point of connection and the design engineer's projection of domestic water use or required fire suppression, whichever is greater.

(i) The utilities reimbursement agreement fee shall be calculated by the city engineering department, for either water or sewer, using the formula:

$$\text{Percent share} = \frac{\text{Calculated flow attributable to development}}{\text{Flow capacity each component}} \times \text{Total cost of each component}$$

(Code 1996, § 705.040; Code 2005, § 90-184; Ord. No. 99-588, § 1, 3-22-1999; Ord. No. 2011-051, § 1, 5-24-2011)

Secs. 90-204—90-216. Reserved.

ARTICLE IV. WATER

DIVISION 1. GENERALLY

Secs. 90-217—90-235. Reserved.

DIVISION 2. CONSERVATION

Sec. 90-236. Scope and purpose.

As part of the city's ongoing efforts to protect the environment, the following policies are implemented to ensure an ongoing source of potable water for its residents. Increasing demands along with long-term projections of water supply for the area require that proactive policies be initiated to ensure future water supplies. The city shall main-

tain an ongoing water conservation program to instill in its citizens a realization that potable water is a precious resource and should be used accordingly.

(Code 1996, § 715.010; Code 2005, § 90-241; Ord. No. 96-053, § 1, 6-24-1996)

Sec. 90-237. Phase I (advisory phase).

(a) Phase I—Advisory Phase shall be in force and effect when:

- (1) The utilities director determines that there exists a potential for water shortage within the area of the city; and
- (2) The utilities director declares the existence of a Phase I Advisory.

(b) During the advisory phase, the public is encouraged to voluntarily conserve water. Residents and commercial businesses will be advised of the water situation through appropriate media

and presentations by the city to various groups and organizations. Information on how to conserve water both inside and outside will be disseminated through the media.

(Code 1996, § 715.030; Code 2005, § 90-243; Ord. No. 96-053, § 4, 6-24-1996; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-238. Phase II (alert phase, voluntary conservation).

(a) Phase II—Alert Phase shall be in force and effect when the utilities director declares the existence of a Phase II Alert upon consideration of the mechanical condition of the water treatment systems, the raw water supplies, the integrity of the transmission and distribution piping systems, the water level in existing storage tanks, the anticipated water usage rates, the nature and extent of the emergency, if any, and other pertinent factors in arriving at a decision as to when water conservation measures are required.

(b) Customers shall be asked to voluntarily comply with the following restrictions when using water supplied by the city:

- (1) No washing of residential or commercial structures, sidewalks, driveways, parking areas, tennis courts, patios or other paved areas.
- (2) No swimming pools will be drained or filled.
- (3) No noncommercial washing of motor vehicles, trailers, or boats except from a bucket.
- (4) No use of water for dust control except on construction sites or for health reasons as approved by the utilities director.
- (5) No use of water from a fire hydrant, except for fighting fires and city-approved uses.
- (6) No watering of any lawn, garden, landscaped area, tree, shrub or other plant, except from a handheld hose or container or drip irrigation system. Exceptions will be allowed for irrigation systems with controllers which allow for rainfall. Watering of commercial property should be

between the hours of 12:00 midnight and 9:00 a.m. except for newly installed landscapes. No outside watering should occur for any reason between the hours of 12:00 noon and 6:00 p.m.

- (7) Water should not flow into the street, parking area or sidewalk from irrigation, broken sprinkler heads, or leaking water lines or faucets.
 - (8) No eating establishment shall serve water except upon request.
 - (9) Employees of businesses should check toilets and sinks daily for drips and leaks. Dripping faucets and leaking or running toilets should be repaired within five days.
 - (10) No watering is permitted on Saturdays, which are peak water usage days.
 - (11) All water customers with addresses ending in even numbers should water lawns, shrubbery, and flowers only on Monday, Wednesday, and Friday. All businesses with addresses ending in odd numbers should water on Tuesday, Thursday, and Sunday.
 - (12) It is strongly recommended that all businesses install low-flow water equipment including faucet aerators, showerheads, toilet water savers and automatic faucet controllers. All irrigation systems should install a rain sensor on each controller.
- (Code 1996, § 715.040; Code 2005, § 90-244; Ord. No. 96-053, § 5, 6-24-1996; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-239. Phase III (mandatory conservation phase).

(a) Phase III—Mandatory Conservation Phase shall be in force and effect when the board determines and declares the existence of a Phase III Alert after considering the mechanical condition of the water treatment systems, the raw water supplies, the integrity of the transmission and distribution piping systems, the water level in existing storage tanks, the anticipated water usage rates, the nature and extent of the emergency,

if any, and other pertinent factors in arriving at a decision as to when water conservation measures are required.

(b) Customers shall comply with the following restrictions when using water supplied by the city, or when using water supplied by an independent source:

- (1) No washing of residential and commercial structures, sidewalks, driveways, parking areas, tennis courts, patios or other paved areas.
- (2) No swimming pools will be drained or filled.
- (3) No noncommercial washing of motor vehicles, trailers, or boats except from a bucket.
- (4) No use of water for dust control except on construction sites or for health reasons as approved by the utilities director.
- (5) No use of water from a fire hydrant, except for fighting fires and city-approved uses.
- (6) No watering of any lawn, garden, landscaped area, tree, shrub or other plant, except from a handheld hose or container or drip irrigation system. Exceptions will be allowed for irrigation systems with controllers which allow for rainfall. Watering of commercial property should be between the hours of 12:00 midnight and 9:00 a.m. except for newly installed landscapes. No outside watering should occur for any reason between the hours of 12:00 noon and 6:00 p.m.
- (7) No water shall flow into the street, parking area or sidewalk from irrigation, broken sprinkler heads, or leaking water lines or faucets.
- (8) No eating establishment shall serve water except upon request.
- (9) Employees of businesses should check toilets and sinks daily for drips and leaks. Dripping faucets and leaking or running toilets should be repaired within five days.

(10) No watering is permitted on Saturdays, which are peak water usage days.

(11) All water customers with addresses ending in even numbers should water lawns, shrubbery, and flowers only on Monday, Wednesday, and Friday. All businesses with addresses ending in odd numbers should water on Tuesday, Thursday, and Sunday.

(12) It is strongly recommended that all businesses install low-flow water equipment including faucet aerators, showerheads, toilet water savers and automatic faucet controllers. All irrigation systems should install a rain sensor on each controller.

(Code 1996, § 715.050; Code 2005, § 90-245; Ord. No. 96-053, § 6, 6-24-1996; Ord. No. 2009-097, § 1, 12-8-2009)

Sec. 90-240. Notice of implementation of restrictions.

(a) All persons shall be conclusively presumed to have notice of the implementation of any stage of the plan as set forth pursuant to this division and shall be subject to its provisions upon the filing of a notice of such implementation with the city clerk and when a copy of such notice is posted at the city hall.

(b) Reasonable efforts shall be made to utilize news media and other means to publicize the implementation of various stages of the plan. Notice is to be posted and filed at city hall at least 48 hours prior to the time for implementation. (Code 1996, § 715.060; Code 2005, § 90-246; Ord. No. 96-053, § 7, 6-24-1996)

Sec. 90-241. Phase IV (drought emergency).

(a) Phase IV—Drought Emergency shall be in force and effect when the board declares the existence of a Phase IV Alert after considering the mechanical condition of the water treatment systems, the raw water supplies, the integrity of the transmission and distribution piping systems, the water level in existing storage tanks, the anticipated water usage rates, the nature and extent of the emergency, if any, and other pertinent factors in arriving at a decision as to when water conservation measures are required.

(b) Customers shall comply with the following restrictions when using water supplied by the city, or when using water supplied by an independent source:

- (1) No outdoor commercial or noncommercial watering, whether public or private, shall occur until further notice.
- (2) All fountains, reflecting pools, and artificial waterfalls used for ornamental purposes will be terminated.
- (3) All landscaping water systems will be shut off.

(Code 1996, § 715.070; Code 2005, § 90-247; Ord. No. 96-053, § 8, 6-24-1996)

Sec. 90-242. Exceptions and adjustments.

(a) Exceptions to the application of use restrictions pursuant to this division may be requested in writing, setting forth in reasonable detail the factual basis for such request. The request shall be signed by the customer making it, shall be delivered to the utilities director, and shall include a request for a hearing if one is desired.

(b) If a hearing is granted, notice of the time and place will be given to the applicant within three days, and the matter determined in its entirety within 24 hours following the hearing of the request. The hearing board will be comprised of the utilities director, the city's administrator and the alderman serving on the finance committee and the mayor. The decision for exceptions or adjustments will be by a majority of the quorum present.

(c) If no hearing is requested, the utilities director shall proceed to consider the application giving due regard to the following factors: major business or process expansion, nature of the business, inequity, hardship, or other factors making strict application of the water conservation restrictions unjust.

(Code 1996, § 715.080; Code 2005, § 90-248; Ord. No. 96-053, § 9, 6-24-1996; Ord. No. 2009-097, § 1, 12-8-2009; Ord. No. 2022-0129, § 2, 12-13-2022)

Sec. 90-243. Filling of swimming pools.

Swimming pools shall be filled only once a year unless otherwise approved by the utilities director.

(Code 1996, § 715.090; Code 2005, § 90-249; Ord. No. 96-053, § 10, 6-24-1996; Ord. No. 2009-097, § 1, 12-8-2009)

Secs. 90-244—90-265. Reserved.

DIVISION 3. CROSS CONNECTION CONTROL

Sec. 90-266. Purpose.

The purposes of this division shall be:

- (1) To protect the city's public potable water system from contamination or pollution by containing, within a customer's internal distribution system or private water system, contaminants or pollutants which could backflow through the service connection into the city's public potable water supply system.
- (2) To promote the elimination, containment, isolation and control of existing cross connections, whether actual or potential, between the public potable water system and the customer's internal distribution system or private water system.
- (3) To provide for the maintenance of a continuing program of cross connection control and effectively prevent the contamination or pollution of the public potable water system.

(Ord. No. 2013-0012, § 90-271, 1-22-2013)

Sec. 90-267. Applicability and exemptions.

(a) This division shall apply to all premises served by the public potable water system of the city. All customers connected to the city's public potable water system shall adhere to the provisions of this Cross Connection Control Program.

(b) Exceptions.

- (1) The requirements of this division shall not apply to residential single family

dwellings unless a sprinkler system, irrigation system, swimming pool, spa, or auxiliary water system is existing or has been installed or other cross connection is specifically identified on the premises.

- (2) The city may grant a request for exemption, with approval of the state department of natural resources, from the requirements of this division if the customer can demonstrate that the activities taking place at the customer's facility and the materials used or stored in connection with these activities will not endanger the health of other customers or degrade the water quality of the public potable water system should backflow occur, or that any potential risk posed by these materials or activities is isolated from the public water system. Those customers granted an exemption in accordance with this section shall report to the utilities department, any proposed change in process, plumbing or material used or stored at the exempted facility at least 14 days prior to making the change.

- (c) Any exemption shall be revoked if:

- (1) The state department of natural resources or the city determines that a customer facility has become an actual or potential backflow hazard.
- (2) The customer fails to provide notice at least 14 days prior to making any changes in process, plumbing or materials used or stored at the facility.

(Ord. No. 2013-0012, § 90-273, 1-22-2013)

Sec. 90-268. Initial program implementation procedure.

Following adoption of this division, the city shall conduct a survey and inspection of all customer premises connected to the city's public potable water system in order to determine needs for backflow prevention. Following the initial survey and inspection of each premises, the city will provide notification to the customer of any requirement for the installation of a backflow assembly or the upgrade of an existing

assembly. Within 30 days of notification, the customer shall submit to the planning and development department, for review and approval, plans for the installation of the assembly. The planning and development department shall review the plans within 15 days. If plans are denied, the customer shall resubmit corrected plans within ten days of denial notification. Following approval of installation plans, the planning and development department will issue a permit for the installation of an assembly as required. Upon receipt of the permit, the customer shall be given 90 days to perform the installation. Failure of the customer to meet procedure timelines shall result in discontinuation of water service as described in subsections 90-275(b) and (c).

(Ord. No. 2013-0012, § 90-274, 1-22-2013)

Sec. 90-269. 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 water system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the utilities department and as required by the laws and regulations of the state department of natural resources.

(b) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable water system.

(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 utilities department as necessary for the protection of health and safety.

(d) No plumbing branch shall be installed prior to the inlet side of a backflow prevention assembly.

(e) No bypass shall be installed around any backflow prevention assembly unless there is an approved backflow prevention assembly in the bypass. This application is acceptable for custom-

ers who desire or require uninterrupted water service during testing, repair or maintenance of an assembly.

(f) No person shall willfully damage, tamper with or modify the intended function of a backflow prevention assembly.

(g) No person shall cover an existing backflow prevention assembly vault or pit with earth, concrete or pavement, or otherwise render it inaccessible.

(h) No connection of a private water distribution system shall be made to the city's public water system unless an approved method of backflow prevention, as determined by the utilities department, is installed.

(Ord. No. 2013-0012, § 90-275, 1-22-2013)

Sec. 90-270. Types of protection required.

(a) *Generally.* The type of protection required by this division shall depend on the degree of hazard which exists, as established by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California and adopted by the state department of natural resources.

(b) *Uses constituting potential Class I Hazards.* An approved air gap separation or an approved RP shall be installed when the public potable water system may be contaminated with substances that could cause a Class I health hazard. Examples:

- (1) Facilities that manufacture vehicle, aircraft, construction or agricultural equipment;
- (2) Potable water dispensing stations which are served by a public potable water system;
- (3) Facilities, including dairies, soft drink bottlers, breweries, canneries, packing houses and reduction plants;
- (4) Car washes;
- (5) Chemical, biological and radiological laboratories, including those in educational facilities;
- (6) Hospitals, clinics, medical buildings, autopsy facilities, morgues, mortuaries and other medical facilities;

- (7) Metal or plastic manufacturing, fabrication, cleaning, plating or processing facilities;
- (8) Facilities manufacturing paper and paper products;
- (9) Facilities manufacturing, refining, compounding or processing fertilizer, film, herbicides, natural or synthetic rubber, pesticides, petroleum or petroleum products, pharmaceuticals, radiological materials or any chemical which would be a contaminant to the public potable water system;
- (10) Commercial facilities that use herbicides, pesticides, fertilizers or any chemical which would be a contaminant to the public potable water system;
- (11) Facilities processing, blending or refining animal, vegetable or mineral oils;
- (12) Commercial laundries and dye works;
- (13) Sewage, stormwater and industrial waste treatment facilities and pumping stations;
- (14) Waterfront facilities, including piers, docks, and marinas;
- (15) Industrial facilities which recycle water;
- (16) Restricted or classified facilities or other facilities closed to the supplier of water;
- (17) Fire sprinkler systems using any chemical additives;
- (18) Auxiliary water systems;
- (19) Irrigation systems with facilities for injection of pesticides, herbicides or other chemicals or with provisions for creating back pressure;
- (20) Portable tanks for transporting water taken from a public potable water system;
- (21) Facilities that have pumped or re-pressurized cooling or heating systems that are served by a public water system, including all boiler systems;
- (22) In cases of intricate plumbing and piping arrangements;

- (23) When entry to all portions of the premises is not readily accessible for inspection purposes making it impracticable or impossible to ascertain whether or not cross connections exist;
 - (24) Any cross connection that could permit introduction of contaminants into the public or customer's potable water system creating health hazards; and
 - (25) Food processing or preparation facilities or other establishments with chemical injection equipment, except carbonation equipment.
- (c) *Uses constituting potential Class II Hazards.* An approved air gap separation, an approved RP or an approved DCVA shall be installed when the public potable water system may be polluted with substances that could cause a Class II hazard not dangerous to health. Examples:
- (1) Tanks to store water from the public potable water system for firefighting only, unless the tanks meet the requirements of the state department of natural resources for construction to maintain bacteriological quality of the water;
 - (2) Fire sprinkler systems not using chemical additives;
 - (3) Irrigation systems without facilities for injection of pesticides, herbicides or other chemicals;
 - (4) Multi-story buildings, such as hotels, motels, malls, office buildings or apartment houses;
 - (5) Any cross connection that could permit introduction of pollutants into the public or customer's potable water system and create a nuisance, aesthetically objectionable water or may cause minor damage to the public potable water system or its appurtenances;
 - (6) Food processing or preparation facilities without chemical injection equipment; and
 - (7) Facilities with carbonation equipment.
- (d) *Other uses.* Customer facilities not designated a backflow hazard by subsection (b) or (c) of this section may be designated a Class I or Class II backflow hazard by written notification from the utilities department to the customer. The notice shall specify the nature of the customer's activity which necessitates designation of the facility as a backflow hazard, the type of backflow protection required and the date by which the user shall install or construct this assembly on the customer's service line to the facility.
 - (e) *Temporary connections.*
 - (1) Temporary connections to the water system for any purpose shall be considered a Class I health hazard and shall be protected by an RP or an air gap separation.
 - (2) When a fire hydrant connected to the public potable water system is used as a temporary water source, the connection shall be considered a Class I health hazard and shall be protected by an RP. The utilities department will provide and install an RP along with a temporary meter connection. The RP shall not be removed or relocated by the customer.
 - (3) A mobile business connected to the public potable water system for a temporary water source shall be considered a Class I health hazard and shall be protected by an RP or an air gap separation supplied by the business. Examples of such mobile businesses, not all inclusive, are power washing, carpet cleaning, chemical fertilizer applicators, hydro-seeders, boring machines, watering trucks, and sewer cleaning equipment.

(Ord. No. 2013-0012, § 90-276, 1-22-2013)

Sec. 90-271. Customer requirements.

All customers shall:

- (1) Eliminate cross connections or install an approved backflow prevention assembly at a location required under this division.
- (2) Correct malfunctions and make necessary repair of backflow prevention assemblies.

- (3) Inform the utilities department of any auxiliary water supply on or available to the subject property.
- (4) Install thermal expansion control or release devices within the user's plumbing system to control or release pressures that may dissipate into the public potable water system.
- (5) Unless restricted or classified, make the customer's remises accessible at reasonable times to the utilities department or other authorized city representatives for the conduction of surveys and investigations of water use practices to determine whether actual or potential cross connections exist within the customer's water system.
- (6) Conduct periodic surveys of water use practices on their premises to determine whether actual or potential cross connections exist within their water system through which contaminants or pollutants could backflow into their own or the public potable water system.
- (7) Upgrade or replace an existing backflow prevention assembly that does not meet requirements when:
 - a. The assembly cannot be made testable;
 - b. The assembly does not meet the test standards as established by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California and adopted by the state department of natural resources; or
 - c. The utilities department determines the operations on the customer's side of the assembly constitutes such a potential hazard as to require upgrade or replacement.
- (8) Immediately report any failure, removal, modification or replacement of a backflow prevention assembly, air gap separation or any suspected backflow to the utilities department.

(Ord. No. 2013-0012, § 90-277, 1-22-2013)

Sec. 90-272. Installation requirements.

- (a) *Approval of utilities department required.* Backflow prevention assemblies required by this division shall be installed, at the expense of the customer, at a location and in a manner approved by the utilities department.
- (b) *Specifications for gap separation assemblies.* Air gap separations shall be at least two times the diameter of the supply pipe, measured vertically above the top rim of the receiving vessel, but in no case less than one inch.
- (c) *Specifications for DCVA.*
 - (1) Interior building applications are recommended; however, valve pit or valve vault installations are acceptable.
 - (2) Assemblies installed in a valve pit shall have a minimum of 12 inches of clearance from the lowest point of the valve to a permeable layer of at least 12 inches of clean gravel. The valve pit must have an adequate amount of a permeable layer to keep the pit free of water.
 - (3) Valve vault applications shall allow a minimum of 12 inches of clearance from the lowest point of the valve to the vault floor.
 - (4) Valve vaults shall have a drain to daylight through an adequate and permanent gravity drain with a slope of at least one percent. Installation plans shall indicate the elevation of the vault floor, drain piping and drainage area. Drainage pipe shall be screened and of adequate size to drain water during standard maintenance and testing procedures.
 - (5) If a gravity drain requirement cannot be met the vault shall be equipped with an automatic sump pump. The pump shall be set in a recessed section of the vault floor with an output piped through the vault wall above grade.
 - (6) For assemblies larger than three-inch, the minimum clearance shall be 30 inches free space on the testable side and 12 inches on the opposite side, eight inches from the last flange on each end, and six inches above the highest point.

(7) For assemblies less than three-inch, the minimum clearance shall be 30 inches free space between the testable side and 12 inches on the opposite side, four inches on each end and six inches above the highest point.

(d) *Specifications for RP.*

(1) Assembly shall be installed in a location where it will not be submerged or subject to flooding by any fluid.

(2) The lowest point of the assembly shall be at least 12 inches but not more than 36 inches above the surface elevation or high water level, whichever is highest.

(3) Assemblies shall be installed with no plug or additional piping affixed to the pressure differential relief port, except for specifically designed air gap funnel apparatus available from the manufacturer.

(4) Assemblies shall not be installed below grade, or in a vault or pit.

(5) When installed inside a building, the relief port discharge shall be piped outside or to a floor drain and be sized for maximum discharge as recommended by the manufacturer.

(6) Assembly shall be installed with the relief port pointed down.

(7) For assemblies larger than three-inch, the minimum clearance shall be 30 inches free space on the testable side and 12 inches on the opposite side, eight inches from the last flange on each end, and six inches above the highest point.

(8) For assemblies less than three-inch, the minimum clearance shall be 30 inches free space between the testable side and 12 inches on the opposite side, four inches on each end and six inches above the highest point.

(e) *Cold water application required; exception.* Unless otherwise specified by the manufacturer, all assemblies are to be installed on cold water applications below 110 degrees Fahrenheit.

(f) *Device location and orientation.*

(1) Backflow prevention assemblies 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 branch connection on the customer side of the water meter.

(2) Backflow prevention assemblies shall be located so as to be readily accessible for maintenance, testing, and protected from freezing.

(3) All backflow prevention assemblies shall be installed in a horizontal orientation unless specifically noted on the list of approved backflow prevention assemblies established by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California and adopted by state department of natural resources.

(g) *Test water discharge procedure.* An adequate and permanent method of handling test water discharge shall be provided.

(h) *Support of assembly valves.* Adequate support, excluding water lines, shall be provided under assembly valves for assemblies that are three inches or larger.

(Ord. No. 2013-0012, § 90-278, 1-22-2013)

Sec. 90-273. Inspection, testing and maintenance.

(a) *Customer responsibilities.* It shall be the responsibility of the customer at any premises where a backflow prevention assembly is required by this division, to have inspections, tests, and maintenance performed, at the customer's expense, by a certified backflow assembly tester in accordance with the following schedule or more often where inspections indicate a need.

(b) *Inspection schedule.* Air gap separations shall be inspected at the time of installation and at least annually thereafter. DCVA and RP assemblies shall be inspected and tested at the time of installation and at least annually thereafter. Backflow prevention assemblies on irrigation sys-

tems shall be inspected and tested annually during startup of the irrigation system or by June 1, whichever occurs first.

(c) *Performance testing schedule; report of non-compliance.* Annual performance testing shall be conducted on DCVA and RP assemblies no later than 30 days past the anniversary date of installation or last inspection. The city shall notify the state department of natural resources if a performance test and inspection is not conducted on a customer's backflow assembly within 60 days of the established anniversary date.

(d) *Repair or replacement of defective devices; retesting.* Any backflow prevention assembly which fails or is found to be non-operable during a test shall be immediately repaired or replaced by the customer. Upon completion of any repair or replacement the assembly shall be retested to ensure correct operation.

(Ord. No. 2013-0012, § 90-279, 1-22-2013)

Sec. 90-274. Records and reporting.

(a) *Customer information to be maintained by department.* The utilities department shall maintain a database of all customer information requiring backflow prevention. The data shall include information pertaining to type, installation dates, repairs, inspections and testing of each backflow prevention assembly as required under this division.

(b) *Certificates of inspection and testing to be provided by customer.* The customer shall cause a certified backflow assembly tester to provide to the city a copy of a certified performance test and inspection on a form approved by the utilities department within ten days after the completion of any the test or inspection, but not more than 30 days past the anniversary date of any assembly.

(c) *Types of assemblies requiring multiple certificates.* Detector double check valve assemblies and detector reduced pressure principal backflow prevention assemblies are composed of two unique assemblies, each requiring separate certificate submission.

(Ord. No. 2013-0012, § 90-280, 1-22-2013)

Sec. 90-275. Discontinuance of water service for noncompliance.

(a) If any violation of this division is not corrected within 14 calendar days following certified notification to the customer, the city shall discontinue water service to the premises wherein the cross connection control violation exists. Other than water required for testing of an assembly, the water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects creating violation of this division.

(b) Water service shall be completely severed if a customer is causing or maintaining an unprotected cross connection, refuses to proceed without delay to correct any violation of this division, or if so ordered by the state department of natural resources, the water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects creating violation of this division.

(c) Nothing in this section shall be construed to interfere with any additional penalties that may be imposed as set forth in section 90-1.

(Ord. No. 2013-0012, § 90-281, 1-22-2013)

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RESERVED

Chapter 94

ZONING*

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***Editor's note**—Ord. No. 2018-0030, § 2, adopted April 10, 2018, amended ch. 94 in its entirety to read as herein set out. Former ch. 94, §§ 94-1—94-4, 94-5—94-13, 94-20—94-38, 94-45—94-51, 94-55—94-59, 94-65, 94-70, 94-75, pertained to similar subject matter. For full derivative history see the Code Comparative Table.

State law references—Planning and zoning, RSMo 89.010 et seq.; municipal planning, RSMo 89.300 et seq.; community affairs, RSMo 251.010 et seq.; planning and development generally, RSMo 251.150 et seq.; authority for municipal regulation of outdoor advertising, RSMo 71.288; municipal housing, housing authorities law, RSMo 99.010 et seq.

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ARTICLE I. IN GENERAL**Sec. 94-1. General provisions.**

(a) *Title.* The regulations of this chapter shall be known, and may be cited as the "Unified Development Code", and may be referred to as "Unified Development Code", "UDC", or "these regulations".

(b) *Authority.*

- (1) These regulations are adopted and administered pursuant to the authority granted to the city by the state.
- (2) The regulations set forth in this chapter shall apply to all the land located within the city, and to all city zoning districts, except to the extent that the provisions of this chapter shall exclude such application.

(c) *Interpretation, purpose, fees.*

- (1) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, propriety, general welfare and the preservation of personal and property rights. It is not intended that this chapter interfere with, abrogate or annul any ordinance, rule, regulation, or permit previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or issued, pursuant to the law, relating to the use of structures or premises, nor is it intended by this chapter to interfere with, abrogate or annul any easement, covenant or other agreements between parties; provided, however, that where this chapter imposes greater width or size of yards, courts, or other open spaces, or requires a lower height of building or less number of stories, or requires a greater percentage of a parcel to be left unoccupied, or imposes other higher standards than are required in any other ordinance or regulation, the provisions of this chapter shall control.
- (2) Application fees are in the amount provided in the city fee schedule.

(d) *Administration and enforcement.* The administration, interpretation and enforcement of the terms of this chapter shall be vested in the planning and development director, and in the discharge of these duties, the planning and development director shall have power of entry in, or upon any premises in all lawful manner and means. The planning and development director shall rule on all questions regarding such enforcement and interpretation, and any party shall have the right of appeal from the planning and development director's formal decision.

(e) *Minimum standards.*

- (1) The provisions of these regulations shall be held to be minimum requirements. The city may impose more restrictive standards when it finds they are necessary to conform any design to sound engineering, design, site restrictions, or other standards in these regulations.
- (2) An applicant may, upon city approval, construct public improvements to standards higher than the city's specifications for their design and construction. Before the city approves such higher standards, the applicant shall submit maintenance plans relating to such public improvements.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-2. Conflicts.

When these regulations impose a greater restriction than imposed by other ordinances or laws, the provisions of the Unified Development Code shall govern.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-3. Conformance to Code.

(a) As used in this chapter, the term "all codes" shall include the building code, electrical code, mechanical code, plumbing code, fire code, property maintenance code, environment code, and the health and sanitation code currently in effect and approved by board action by reference or otherwise.

(b) All buildings in any district shall strictly conform to all codes herein defined, and failing such compliance, it shall be the duty of the planning and development director to initiate appropriate enforcement of such codes, and all of them.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-4. Severability.

(a) If any court of competent jurisdiction invalidates any provision of these regulations, then such judgment shall not affect the validity and continued enforcement of any other provision of the Unified Development Code.

(b) If any court of competent jurisdiction invalidates the application of any provision of these regulations to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.

(c) If any court of competent jurisdiction judges invalid any condition attached to the approval of a specific application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

(d) Whenever a condition or limitation is included in an administrative action authorizing regulatory activity, then it shall be conclusively presumed that the authorizing officer, commission, or board considered such condition or limitation necessary to carry out the spirit and intent of these regulations, and that the officer, commission, or board would not have granted the authorization to which the condition or limitation pertained except in belief that the condition or limitation was lawful.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-5. Definitions.

For the purpose of this chapter, any words defined in the building code of the city and not specifically defined herein shall be construed as defined in the building code of the city. Any word not defined herein or in the building code of the city shall have its usual meaning unless otherwise provided in this section. For general definitions and rules of construction applicable throughout this Code, see section 1-2.

Abutting means contiguous or sharing any point of contact. Distance from a contiguous zoning district shall be measured from the common property boundary, or if separated by right-of-way, the width of the right-of-way shall be measured and credited as part of any required separation distance.

Accessory structure means any structure which is not the primary structure on a premises, detached but on the same premises as the primary structure such as a building, carport, gazebo or pergola.

Accessory use means a use that:

- (1) Is clearly incidental to, and customarily found in connection with a principal use, and is located on the same lot as the principal use served;
- (2) Is subordinate to, and serves a principal use, and is subordinate in area, extent, or purpose to the use served; and
- (3) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use served.

Adult entertainment means any of the establishments, businesses, buildings, structures or facilities defined in this section.

- (1) *Adult bookstore* means an establishment having at least a ten percent portion of its stock in trade, books, photographs, magazines, films for sale or rental, viewing on the premises by use of motion picture devices, or other coin-operated means, or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to specified sexual activities as said term is defined herein.
- (2) *Adult entertainment facility* means any building, structure or facility which contains or is used entirely or partially for commercial entertainment, including theaters used for presenting live presentations, videotapes or films predominantly distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to specified sexual activities, as said term is defined herein, and exotic dance facilities (regardless of whether the theater or facility provides a live presentation, videotape or film presentation), where the patrons either:
 - a. Engage in personal contact with, or allow personal contact by employees, devices or equipment, or by personnel provided by the establishment which appeals to the prurient interest of the patrons; or
 - b. Observe any live presentation, videotape or film presentation of persons wholly or partially nude with their genitals or pubic region exposed or covered only with transparent or opaque covering, or in the case of female persons with the areola and nipple of the breast exposed or covered only with transparent or opaque covering or to observe specified sexual activities as said term is defined herein.
- (3) *Adult massage establishment* means an establishment which has a fixed place of business having a source of income or compensation of 60 percent or more of which is derived from the practice of any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of external parts of the human body with the hands or with the aid of any mechanical electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage. Under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his/her behalf will pay money or give any other consideration or gratuity; provided that this term shall not include any establishment operated or supervised by a medical or chiropractic practitioner or professional physical therapist, or professional masseuse, licensed by the state.
- (4) *Bathhouse* means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated or supervised by a medical or chiropractic practitioner or professional physical therapist licensed by the state.

(5) *Specified sexual activities:*

- a. "Sexual conduct," being acts of masturbation, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such person be a female, her breast;
- b. "Sexual excitement," being the condition of human male or female genitals when in a state of sexual stimulation or arousal; or
- c. "Sadomasochistic abuse," being flagellation or torture by or upon a person or the condition of being fettered, bound or otherwise physically restrained.

Agriculture is a use category comprised of uses characterized by general active and on-going agricultural uses, activities, and related uses. An agricultural use, in general, means the use of land for the growing and production of field crops, livestock, aquatic, and animal products for the production of income.

Agritainment means events and activities that allow for recreation, entertainment, and tourism in conjunction with agriculture support and services directly associated with on-going agricultural activities on-site that are for-profit. Events and activities include the following: hay rides, corn mazes, hay mazes, petting zoos (farm animals only), living historical farms, farm tours (for profit), and agricultural festivals.

Airport and passenger terminal means a facility that provides space for aircraft to take off and land which is usually equipped with a control tower, hangars, and accommodations for passengers and cargo.

Alcohol and drug abuse treatment facility means any dwelling or place licensed, certified or authorized by state, federal or local authorities as a residence and treatment facility for persons with alcoholism or drug abuse problems needing a supervised living arrangement and rehabilitation services on a short-term or long-term basis.

Alternative financial services means the provision of nonbank financial services, such as check cashing, payday advance or loan, money transfer, motor vehicle title loan, pawn shops, rent-to-own, or credit access businesses. An alternative financial services establishment does not include state or federally chartered banks, savings and loans, or credit unions. An alternative financial establishment does not include an establishment that provides financial services that are accessory to another main use.

Amusement park or theme park means a facility that may include amusement parlors, structures, buildings and premises, where there are various devices for entertainment, which may include rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

Amusement parlor/arcade means a building, or part of a building, to which the public may enter in which pinball machines, video games, or other similar coin, token, or app-operated devices operated for amusement, pleasure, test of skill, competition, or sport are maintained.

Animal hospital means a facility for the diagnosis and treatment of pets and other animals including, but not limited to, dogs, cats, birds, and horses. No outside boarding of these animals shall be allowed overnight.

Animal raising, farm or domestic use means land used for the production, keeping or maintenance of livestock for either hobby or recreational purposes, and to supplement household food supply to the occupants of a dwelling on the same tract.

Animal sales and services is a use category that includes the sale, boarding, and care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas.

Animal shelter means a facility that is used to house or contain animals, and is owned, operated, or maintained by a nonprofit organization or corporation for the purpose of providing temporary kenneling and care for the animals, and finding permanent adoptive homes for them.

Antique shop means an establishment offering articles for sale such as glass, china, furniture or similar furnishing or decorations which have value and significance as a result of age, design or sentiment.

Art gallery means a building or space where artwork is exhibited and sometimes sold.

Athletic area means an outdoor area, along with its incidental buildings and structures, at least part of which is designed, developed, and intended for organized sport or athletic activities and other activities or events to which groups of people greater than the family unit might be attracted as participants or spectators.

Attraction means a use or structure that promotes tourism or provides an opportunity to partake in entertainment which is permitted by the zoning regulations for that district including food and beverage, musical and theater performances, art and cultural attractions, and amusement rides and features.

Auto rental means a facility limited to office space, along with the display of automobiles which, for a fee, are rented or leased.

Auto repair means a facility that may provide and specialize in the repair of certain auto parts such as brakes, mufflers, collision repair or transmissions.

Auto sales means a facility used primarily for the sale of automobiles.

Auto salvage and wrecking means any location at which:

- (1) More than five inoperable vehicles, or vehicles under repair are located, and all vehicles are located outside of an enclosed building, and said vehicles have been in a state of disrepair for 45 or more days, continuous or collective.
- (2) Automotive parts are being stored outside of any enclosed building.
- (3) An area is being used for the outdoor storage of scrap metal, sheet metal, piping, plumbing supplies, construction materials, glass, waste paper, tanks, storage containers or other similar items.

Automated teller machine (ATM) means an electronic banking outlet which allows customers to complete basic transactions without the aid of a branch representative or teller.

Automobile parts recycling means an establishment that is maintained, operated, or used for storing, keeping, buying or selling used automobile parts; for the maintenance or operation of an automobile part recycling; the term shall include salvage yards, automobile graveyards, and used auto parts dealers.

Awning means a roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Barbershop, beauty shop, spa means a facility licensed by the state where hair cutting, hair dressing, shaving, trimming beards, facials, manicures or related services are performed.

Bed and breakfast inn means a house, or portion thereof, used by the record owner of the property, who is also a resident of the property, and where guestrooms and meals are provided to transient guests.

Best management practices (BMP) means any physical, chemical, or managerial practice that reduces soil erosion or reduces the amount of sediment or other pollutants discharging to or potentially discharging to the municipal separate storm sewer system (MS4).

Block means a place or parcel of land surrounded by public highways, streets, streams, railroad rights-of-way, or parks, etc., or a combination thereof.

Brewery, distillery, or winery means an establishment that produces alcoholic beverages in conjunction with a restaurant, retail sales, or tasting room. The liquor may be distributed to other locations, and be sold on site.

Building height means the vertical distance from the grade to the highest point of the roof. For purposes of this definition, grade shall mean the average of the finished ground level at the center of each wall of a building containing ten percent or more of the combined perimeter length of all walls of the building, measured either ten feet away from the building, or at the property line if the building is less than ten feet from the property line.

Building line means the exterior face of a wall of an existing structure, or the limits to which an exterior face of a wall of a proposed structure may be built, but shall not include retaining walls, the face of one-story, unoccupied gable-roofed areas over porches, entrance or line appendages.

Building maintenance, sales and service means a facility or area for contracting services such as building repair and maintenance, the installation of plumbing, electrical, air conditioning and heating equipment, janitorial services, and exterminating services. The retail sale of supplies is permitted as an accessory use.

Bus garage means a facility where buses and similar modes of transportation are stored and maintained.

Bus terminal means a lot and related building that is a designated location where bus, coach, or similar transportation services start or end. A bus terminal shall not include a location where the bus stops to drop off or take on passengers where there are no operational facilities.

Campground and vehicle park means any parcel or tract of land upon which two or more campsites are occupied, or intended to be occupied, for overnight camping.

Campsite means a portion of the rentable space of a campground having an area 580 square feet or more.

Canopy means an attached or detached structure, open on at least one side, which is designed to provide overhead shelter from the sun or weather. Canopies include, but are not limited to, service station canopies, porte-cochères, arcades, and pergolas. A canopy is different from an awning in that a canopy is not covered with fabric or flexible material.

Carport means an accessory structure used for the housing or storage of motor vehicles, and enclosed on not more than two sides by walls.

Car wash means a facility for washing or steam cleaning passenger automobiles (including self-service operation), operating either as a separate facility or when installed and operating in conjunction with another use, and which installation includes equipment customarily associated with a car wash and which is installed solely for the purpose of washing and cleaning automobiles.

Cemetery and mausoleum means a facility or area used or intended to be used for the burial of the dead, including crematories, mausoleums, and mortuaries when operated in conjunction with, and within the boundaries of such cemetery.

Charitable drop box means a container used to hold charitable donations.

Child care means the care of a child away from its own home for any part of the day or night.

Child care center means a child care program where care is provided for 20 or more children not related to the provider for any part of a 24-hour day.

Civic, social, and fraternal organizations means public, quasi-public, and private organizations that provide unique services that are of benefit to the public as a whole. This category includes organized groups having a membership requirement and specific purpose related to the welfare of the members or community.

Cladding means covers enclosing or decorating poles or other structural supports of a pole sign.

Clear sight triangle means an area free of all obstructions that could interfere with the visibility of approaching drivers as defined in this Code.

- (1) An *intersection clear sight triangle* is located at an intersection between two streets. The area is a triangular-shaped piece of land, measuring 40 feet in distance along the major street, and 20 feet in distance along the minor street, both distances being measured from and along the back of the curb.
- (2) A *driveway clear sight triangle* is located at an intersection between an entrance or drive and a street. The area is a triangular-shaped piece of land, measuring 15 feet in distance along the street, and 15 feet in distance along the entrance or drive, both distances being measured from and along the back of the curb.

Cold frame means an unheated outdoor structure consisting of a wooden or concrete frame, and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

Commercial cryptocurrency mining means the commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the block chain, and also the means through which new units of cryptocurrencies are released, through the use of server farms or data centers employing data processing equipment. Any equipment requiring a high-density load service, for a server farm or data center, will constitute a commercial cryptocurrency mining operation.

Commercial livestock means the raising of domestic animals for profit.

Commercial parking means a facility to provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.

Commercial services, general is a use category that includes uses that provide for consumer or business services, and for the repair and maintenance of a wide variety of products. Personal services are not included in this use category.

Commercial speech means expression by a speaker for the purposes of commerce, where the intended audience is actual or potential consumers, and where the content of the message is commercial in character. Commercial speech typically advertises a business or business activity, or proposes a commercial transaction.

Commercial vehicles means uses available for large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft, or commercial boats that provide the following:

- (1) *Rental services*: A facility limited to office space, along with the display of commercial vehicles, which for a fee, are rented or leased.
- (2) *Repair services*: A facility that may provide and specialize in the repair of commercial vehicles.
- (3) *Sales*: A facility used primarily for the sale of commercial vehicles.

Common element means and includes all portions of a condominium project other than the condominium units. Common elements include, but are not necessarily limited to, the land on which units are located; installations for central services such as power, gas, lights, sanitary sewer, hot and cold water, heating, refrigeration, air conditioning and electricity; community and commercial facilities, including recreational facilities; all apparatus and installations for common use of unit owners; and all other parts of the condominium property necessary or convenient to its existence, maintenance and safety, or normally in common use and described or provided for in the declaration.

Community center means a meeting place used by members of the community for social, cultural or recreational purposes.

Community garden means an area managed and maintained by a group of individuals to grow and harvest food crops, or nonfood crops, for personal or group consumption, for donation, or for sale that is incidental in nature.

Community services is a use category that includes public, quasi-public and private uses that provide unique services that are of benefit to the public at-large.

Comprehensive plan means the comprehensive plan or master plan, made and adopted by the city, indicating the general locations recommended for major thoroughfares, streets, parks, public buildings, zoning districts, and other elements, including special studies supplemental thereof.

Condominium means a property development organized pursuant to, and in accordance with state statute.

Condominium split (applies only to land previously recorded as part of a final plat within the city limits) means a subdivision of condominium structures and property for the purpose of transfer of ownership which does not involve any new street, the extension of any municipal facilities, or the creation of any public improvements, and which does not adversely affect the remainder of the parcel or adjoining property, and which is not in conflict with any provision or portion of the comprehensive plan, the major street plan, the zoning regulations, or this chapter.

Condominium unit means a physical portion of the condominium, the boundaries of which unit are described in the declaration with an identifying number pursuant to state statute.

Congregate living facility and *senior housing* means a noninstitutional, independent group living environment, that integrates shelter and service needs of functionally impaired or socially isolated elders who do not need institutional supervision or intensive health care.

Construction contractor means the office, and indoor or outdoor storage facilities operated by, or on behalf of a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as repair facilities.

Convenience food store means a small food store whose primary function is the sale of convenience food items such as bread, milk, etc.

Copy means the wording on a sign surface, either in permanent or removable form.

Copy area means the geometric area in square feet that encloses the copy of the sign.

Copy extension means that part of the copy area which extends beyond the edge or border of the sign.

Crop raising means commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site: field crops, flowers and seeds, fruits, grains, melons, ornamental crops, tree nuts, trees, sod, vegetables, wine and table grapes. Also includes the following associated crop preparation services and harvesting activities: mechanical soil preparation; irrigation system construction; spraying. Does not include greenhouses.

Cryptocurrency means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

Cryptocurrency data center means a leased or owned boundaries of floor space devoted to the operating data processing equipment for commercial cryptocurrency mining; excludes spaces for commercial offices, storage, shipping and receiving, warehousing, or any other space that is not electronic processing.

Cryptocurrency server farm means three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

Cul-de-sac means a street that has one end open to traffic and the other being terminated by a vehicle turnaround.

Cultural institutions means buildings, structures, or facilities owned, operated, or occupied by a governmental entity or nonprofit organization to provide a service to the public, or preservation and exhibition of objects in one or more of the arts and sciences. This use includes libraries, museums and art exhibitions.

Data center means a facility whose primary service is data processing or data storage, and is used to house computer systems and associated components, such as central processing units, graphical processing units, neural networks, quantum bits, quantum processors, memory, data routing, data storage, server farm, bitcoin mining, crypto processing, virtual private networks, virtual servers, artificial intelligence training or processing, image processing, cloud computing, email servicing, a telecom hotel, telehouse co-location, or any other term applicable to facilities which are used for such purposes shall be deemed to be a data center.

Day care facilities is a use category that includes a building or structure wherein an agency, person, or persons regularly provides care for a child away from their own home for any part of the 24-hour day for compensation or otherwise. Child day care facilities include family day care homes, group day care homes, and child day care centers. They do not include preschools, nursery schools, facilities operated by a school system or in connection with a business establishment as a convenience for its customers, private or religious organization elementary or secondary schools, religious organization academic preschools or kindergartens for four- and five-year-old children, home schools, weekly Sunday or Sabbath schools, vacation bible schools or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. Exempt activities:

- (1) Babysitting services of a casual, nonrecurring nature or in a child's own home.
- (2) Cooperative, reciprocated child care by a group of parents in their respective residences.
- (3) Caring for four or fewer unrelated children in a home.

Decibel (dB) means a decibel (dB) is ten times the common logarithm of the ratio of two power terms expressed in the same units of power.

Destruction means damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

Digital production means uses focused on digital production such as software and internet content development and publishing; computer systems design and programming; and graphic and industrial design.

Discharge means any substance disposed, deposited, spilled, poured, injected, seeped, leached, pumped, dumped, leaked, or placed by any means such that it can reasonably be expected to enter, intentionally or unintentionally, into waters of the state, or on any area draining directly or indirectly into the municipal separate storm sewer system (MS4).

District means any section of the city for which the regulations governing use of buildings and premises, and the height and area of buildings are uniform.

Drag show means all or any portion of a live entertainment performance in which characteristics of men or women are exaggerated by an in-person adult or group of adults who impersonate male or female characters while wearing extravagant costumes, which may include clothes, accessories, makeup, or removable prosthetics, excluding prosthetics for limbs or eyes; and

- (1) The impersonation by the adult or group of adults is intended to subvert gender stereotypes; and
 - a. The performance includes jokes, references, dancing, singing, or any other conduct that depicts, describes, or relates to specified sexual activities, as defined herein.

Drag show establishment means an establishment at which a drag show is or has been offered as live entertainment.

Drive-through (thru) means the use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant, window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use; i.e., in combination with other uses such as a bank or financial institution, restaurant, retail store, dry cleaners, laundry, or pharmacy. This definition does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or a service station.

Drugstore or pharmacy means a facility for preparing, preserving, compounding and dispensing drugs and medicines; and may include the display and sale of other merchandise such as cosmetics, lotions, fountain service and similar items.

Dry cleaners means a facility that cleans clothing and other fabrics with chemical solvents that use little to no water.

Dwelling means any building or portion thereof, which is designed or used exclusively for residential purposes.

- (1) *Dwelling, single-family detached* means a detached building used exclusively for residential purposes having suitable accommodations for only one family.
- (2) *Dwelling, single-family attached* means a portion of a residential building having accommodations for one family, and that is located on separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independent of other portions. Typical structures include duplex and townhouse.

- (3) *Dwelling, single-family, two-unit* means a detached building used exclusively for residential purposes and designed for, or occupied by, two families living independently of each other.
- (4) *Dwelling, patio home* means a single-family detached dwelling shifted to one side of the lot, i.e., placed on the lot so that one side setback is zero or nearly zero and the other side setback is larger than if both side setbacks were approximately equal.
- (5) *Dwelling, multi-family* means a building, or portion of a building, having suitable accommodations for three or more families, living independently of each other, who may or may not have joint uses of utilities, halls, yards, etc. This term includes premises occupied more or less permanently for residential purposes in which rooms are occupied in apartments, suites or groups, such as apartments or dormitories. For purposes of this definition, hotels or motels shall not be considered dwellings.
- (6) *Dwelling, live/work* means a use that combines a commercial activity allowed in the zone with a residential living space for the owner of the commercial business, or the owner's employee, and that person's household where: (1) the resident owner or their employee is responsible for the commercial activity performed; and (2) the commercial activity conducted takes place subject to a valid business license associated with the premises.
- (7) *Dwelling, loft* means a residential dwelling that is located above the ground floor of a multistory building.

Easement means a grant by the property owner to the public, a corporation, or persons, for the use of the described strip or area of land for specific purposes.

Eating and drinking is a use category for businesses that prepare or serve food, or serve prepared beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices and parking.

Education facilities is a use category for public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

Electric vehicle charging station means a public or private parking space that is served by electric vehicle supply equipment whose primary purpose is the transfer of electric energy (by conductive or inductive means) to a battery in an electric vehicle.

Energy production and natural resource extraction is a use category that includes energy produced from resources that are regenerative, and the extraction or quarrying of oil, gas, coal, ores, stone, minerals, top soil or aggregate resources from the ground.

Energy production, renewable means energy produced from resources that are regenerative, or for all practical purposes, cannot be depleted.

- (1) *Cogeneration facility:* A structure in which electricity or mechanical power and thermal energy (heating or cooling) are generated from a single fuel source.
- (2) *Solar array:* A freestanding, ground-mounted solar collection system consisting of a linked series of photovoltaic modules with a rated capacity of up to ten kilowatts, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating on-site; however, the energy output may be delivered to a power grid to offset the cost of energy on-site.

- (3) *Wind energy, commercial:* A wind energy conversion system consisting of more than one wind turbine and tower that will be used primarily for off-site consumption of power, or a wind energy system that has a rated capacity in excess of 100 kW.
- (4) *Wind energy, small:* A wind energy conversion system consisting of one wind turbine, a tower, and associated control or conversion electronics that has a rated capacity of not more than 100 kW, and that is intended to primarily reduce on-site consumption of utility power.

Erosion means the wearing away of land due to the action of gravity, wind, water, or other mechanical forces.

Erosion and sediment control manual means the manual which establishes minimum stormwater pollution prevention plan (SWPPP) requirements and provides best management practices (BMP) guidelines.

Existing finish grade means the highest point of elevation within the area below the sign and the parcel line or, when the parcel line is more than five feet from the sign, between the sign and a line five feet from the sign, excluding all planter boxes, foundations, berms, or any other surface alteration that would increase the height of the sign.

Family means one or more persons related by blood, marriage, legal adoption or guardianship, or not more than four persons not so related, living together on the premises as a single housekeeping unit, and shall not be interpreted to include the following facilities addressed in this chapter: congregate living facilities, dormitories, group homes, nursing home or workforce housing.

Family day care home means a child care program for no more than ten children not related to the provider for any part of the 24-hour day.

Farm products warehouse and storage means a structure containing an area available for the purpose of storing agricultural materials, goods, or property.

Farmer's market means an outdoor or partially enclosed market open to the public where vendors offer for sale farm products or goods produced from farm products.

Feed store means a facility for the sale of grain, prepared feed and forage for pets, livestock or fowl, but not involving the grinding, mixing or commercial compounding of such items.

Financial institution means a facility which has as its primary purpose the custody, loan, exchange or issue of money, the extension of credit and the transmission of funds, including drive-in facilities and automatic teller machines.

Flag means a rectangular piece of fabric of distinctive design, not including streamers, banners, or pennants.

Floor area, gross means the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

Floor area ratio (FAR) means the measurement of the relationship between the amount of useable floor area permitted in a building (or buildings), and the area of the lot on which the building stands. FAR is obtained by dividing the gross floor area of a building by the total area of the lot.

Florist means a facility for the retail sale of cut or uncut flowers, ornamental plants and accessory items. Enclosure of use required.

Food truck means a business that is limited to the sale of food and beverages to the public from an enclosed, self-contained, motorized vehicle whether stand-alone or as part of a food truck court. The term "food truck" shall include vending carts and trailers pulled by a vehicle unless otherwise specified within this chapter.

Food truck court means a parcel of land where four or more food trucks are congregated.

Forest land means a land cover that is at least ten percent stocked by single-stemmed woody species of any size that will be at least 13 feet tall at maturity. Also included is land bearing evidence of natural regeneration of tree cover (cut over forest or abandoned farmland), and not currently developed for non-forest use. Ten percent stocked, when viewed from a vertical direction, equates to an aerial canopy cover of leaves and branches of 25 percent or greater. The minimum area for classification as forest land is one acre, and the area must be at least 100 feet wide.

Fortune telling means and includes the telling of fortunes, forecasting of fortunes or futures, or furnishing of any information not otherwise obtainable by ordinary process of knowledge, by means of any occult, psychic power, clairvoyance, clairaudience, cartomancy, phrenology, spirits, tea leaves, or other such reading, mediumship, augury, astrology, palmistry, necromancy, mind reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized ordinance or substance, gypsy cunning or foresight, crystal gazing, oriental mysteries or magic, or other similar means, of any kind or nature. A fortune telling business shall not be considered a home occupation or classified as a religious assembly use.

Freight terminal and warehouse means a business, service or industry involving the use of commercial vehicles in the loading, unloading and transportation of cargo. May also include the fueling, maintenance, servicing, storage or repair of commercial vehicles, or the storage of cargo.

Frontage means the length of the property abutting one side of a street or place measured along the dividing line between the property and the street or place.

Frontage, building means the wall of the primary building that faces the street abutting the property. If the building is located on a corner lot, the frontage may be any of the walls of the primary building that face a street.

Frontage, street means the length of the property line of any one property along a public right-of-way on which it borders, measured along the property line.

Funeral home/parlor means a building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns and other related funeral supplies; and (d) the storage of funeral vehicles, but shall not include facilities for cremation.

Garage/yard/estate sale means a sale of personal property that is conducted on premises within a residential district upon which a dwelling is located, or on any portion of a lot used for residential purposes.

Go-cart track means a track used for racing go-carts.

Government offices and facilities means a place for the regular transaction of governmental business that may include emergency services, and public services and utilities.

Grocery store means a marketplace or establishment where foods and associated items are kept and displayed for retail sales.

Group day care home means a child care program where care is given by a person licensed as a group day care home provider for 11, but not more than 20, children not related to the child care provider for any part of the 24-hour day.

Group home means any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other, or to any of the mentally or physically handicapped persons residing in the home.

Group living is a use category characterized by residential occupancy of a structure by a group of people who do not meet the definition of "household living." Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site.

Health care facilities is a use category characterized by activities focusing on medical services, particularly licensed public or private institutions, that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, parking, or other amenities primarily for the use of employees in the firm or building.

Home occupation means a gainful activity, resulting in a product or service that is conducted in whole or in part on a property zoned or occupied as residential.

Home supply and lumberyard means a facility for the retail sale of home, lawn and garden supplies, and construction materials such as brick, lumber and other similar materials.

Hoop house means a structure made of PVC piping or other material, covered with a see-through material, and constructed in a half-round or "hoop" shape.

Hospital means a facility or area for providing health services primarily for human in-patient medical or surgical care for the sick or injured, and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Hotel means a building which provides a common entrance, lobby, halls and stairways, and in which lodging is provided to transient guests.

Household living is a use category characterized by residential occupancy of a dwelling unit by one or more persons. Pursuant to state statute, single-family dwellings or residences also include "any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home," defined herein as a group home.

Housekeeping unit means a building or portion of a building which is occupied or intended to be occupied as a dwelling, and which has the facility for cooking and serving meals and for sleeping quarters, and which may or may not include rooms or facilities.

Industrial services is a use category of firms that are engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Contractors and similar users perform services off-site. Few customers come to the site. Accessory activities may include sales, offices, parking, and storage.

Kennel means any place, area, building, or structure where pets are boarded, housed, cared for, fed or trained by other than the owner.

Land disturbance means any activity that exposes soil including clearing, grubbing, grading, excavating, filling, and other related activities.

Land disturbance permit means the document issued by the city approving the stormwater pollution prevention plan (SWPPP) and authorizing land disturbance activity in accordance with the stormwater pollution prevention plan (SWPPP).

Landscape area means that area not covered by impervious surface and which contains ground cover, including any combination of the following: trees, shrubbery, perennials, annuals, and mulch.

Laundromat means a coin, credit, or app-operated facility designed for use by the general population for the cleaning of domestic laundry items.

Laundry service station means a facility for the collection and return of domestic laundry items. This use shall be totally enclosed.

Library means an establishment for the loan or display of books which is sponsored by a public or quasi-public agency, and which institution is open and available to the general public.

Lockout unit means one or more rooms within a dwelling unit which is under single, undivided ownership, which are connected to the primary dwelling area by a lockable door, or doors, so as to be capable of occupancy as separate quarters. Such unit may include sleeping, sanitary and kitchenette facilities. A lockout unit shall not be considered a separate dwelling unit unless it is conveyed into separate ownership from the rest of the dwelling unit, or it exceeds 195 square feet in area, in either of which cases, it shall be considered a separate dwelling unit for purposes of calculation of dwelling unit densities. Dwelling units containing lockout units which have been conveyed into separate ownership shall be required to provide parking at the rate of one parking space for each separate dwelling unit containing one bedroom, and one and one-half parking spaces for each separate dwelling unit containing two or more bedrooms. In addition, a lockout unit which is conveyed into separate ownership shall be required to pay an additional sewer capacity fee as a separate dwelling unit.

Lodging establishment is a use category including any building, group of buildings, structure, facility, place, or places of business where guestrooms are provided, which is owned, maintained or operated by any person, and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, apartment hotel, resort, cabin, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, nontransient guests, or for both transient and nontransient guests.

Lot width means the average horizontal distance between side lot lines, measured at right angles to the lot depth line. The planning and development director may use reasonable modifications to this procedure when determining the width of an irregular lot.

Lumberyard means a facility that sells and stores cut lumber and other associated or accessory building materials.

Major street plan means the plan established by the city, pursuant to state law, showing the general alignment and functional classification of streets, highways, and parkways of an ultimate urban arterial network. The purpose of this plan is to guide development of the arterial street network, and to identify appropriate street rights-of-way to be secured at the time of subdivision platting. The plan may be amended, added to, or otherwise refined by the subdivision platting process, or by the planning commission and board.

Manufactured engineered non-residential unit (MENU) means an engineered structure, non-residential in use designed for data centers.

Manufactured home means any home factory-built in the United States to the HUD Title 6 construction standards.

Manufactured structure means and includes any portable structure, vehicle, trailer, mobile home, modular structure, framework, container, platform or device, vehicular in design, which may be drawn, towed or transported from one location to another without basic change in structure or design, whether on wheels or not, and whether designed or used as living or sleeping quarters or not. The term "manufactured structure" includes any structure above-described used for a commercial or residential purpose.

Manufacturing and assembly is a use category including uses that produce goods from extracted and raw materials, or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced.

Manufacturing, artisan/light means light manufacturing businesses that operate in a fully-enclosed space and do not cause external disturbances or pollution. This category also includes spaces used by artists or craftspeople for the creation of art, craft, or similar endeavors.

Manufacturing, general means establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished, and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on-site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

Manufacturing, heavy means a facility or area for generally mass producing goods usually for sale to wholesalers or other industrial or manufacturing uses. A heavy manufacturing use is one which employs the following or similar types of processes:

- (1) The milling of grain as retail sales and service.
- (2) Producing animal food and tanning animal hides.
- (3) Production of large durable goods such as, but not limited to, motorcycles, cars, manufactured homes or airplanes.
- (4) Canning or bottling of food or beverages for human consumption using a mechanized assembly line.
- (5) Manufacturing of paint, oils, pharmaceuticals, cosmetics, solvents, and other chemical products; and use of a foundry for metals.
- (6) Production of items made from stone, clay, metal or concrete.
- (7) Tire recapping or retreading.
- (8) A facility or area for generally mass producing goods usually for sale to wholesalers or other industrial or manufacturing uses.

Marina means a facility or area for storing, servicing, fueling, berthing, and security and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

Marquee means a permanent structure, other than a roof or canopy, attached to, supported by, and projecting from a façade of a building.

Massage establishment means any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any therapeutic massage activities and licensed by the state.

Medical and dental office and clinic means a facility for examining, consulting with and treating patients, including offices, laboratories and outpatient facilities, but not including hospital beds for overnight care or treatment.

Medical and research laboratory means a facility or area for conducting medical or scientific research, investigation, testing, or experimentation, but not facilities for the manufacturing or sale of products, except as incidental to the main purpose of the laboratory. This definition also includes labs for the manufacturing of dentures and prostheses.

Microbrewery means an establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces 10,000 or less barrels (a barrel is approximately 31 gallons) of beer per year. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer.

Miniature golf means a novelty golf game played with a putter on a miniature course usually having tunnels, bridges, sharp corners and obstacles.

Mining and quarrying means any mine, surface mine, pit, or quarry operation.

Minor subdivision means a subdivision of land for the purpose of transfer of ownership that does not contain more than three parcels fronting on an existing street.

Mobile home means a dwelling structure built on a steel chassis and fitted with wheels that is intended to be hauled to a usually permanent site.

Modular housing means a factory-fabricated, transportable building designed to be used, or to be incorporated with, similar units at the building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated sub-elements such as panels, roof trusses, plumbing trees, or similar sub-elements.

Motel means a group of attached or detached permanent structures containing five or more individual sleeping units or guestrooms designed and used for the accommodation of transient guests. The term "motel" does not include campgrounds, and vehicle parks as defined elsewhere in this chapter.

Municipal separate storm sewer system (MS4) means a public conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (1) Designed or used for collecting or conveying stormwater;
- (2) Is not a combined sewer; and
- (3) Is not part of a publicly owned treatment works (POTW).

Museum means an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

Natural forest means a biological community dominated by native trees and other woody plants covering a land area of 10,000 square feet or greater.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance means any sound which:

- (1) Endangers or injures the safety or health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures persons or real property.

Nonconforming structure means a lawfully existing building or portion thereof that does not conform to the provisions of this Code in the zoning district in which it is situated as established in this chapter, or in previously applicable zoning regulations.

Nonconforming use means a structure or premises legally occupied by a use that does not conform to the provisions of this chapter in the zoning district in which it is situated as established in this chapter, or in previously applicable zoning regulations.

Nursing, convalescent, and rest home means an institution or agency licensed by the state for the reception, board, care or treatment of three or more unrelated individuals who by reason of illness or infirmity are unable to properly care for themselves, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

Off-premises contact, primary (OPC) means a stand-alone building, booth, kiosk, stand or similar structure where off-site timeshare plans, timeshare units or vacation clubs are marketed. OPC, accessory is the location of this use within the structure of another primary use.

Office is a use category for a facility that provides executive, management, administrative, or professional services not specifically listed elsewhere in this chapter, but not involving the sale of merchandise except as incidental to a permitted use. Typical examples include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

Office, business and professional means a place for the regular transaction of business, but not to include the occupation by retail sales, transfer of manufactured goods or the storage of commodities.

Oil and gas development means the well site preparation, construction, drilling, re-drilling, hydraulic fracturing, or site restoration, reclamation and other activities associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; the installation and use of all associated equipment, including tanks, meters and other equipment and structures, whether permanent or temporary; the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment; and other equipment and activities associated with the exploration for, production and transportation of oil and gas.

Outdoor sales means the outdoor display of products or services that are intended for retail or wholesale purchase.

Outdoor storage means the keeping of any goods, materials, merchandise, or equipment outside of an enclosed building for more than 24 hours.

Parcel means a portion of a subdivision or other tract of land intended as a unit for transfer of ownership or for development.

Park and playground means a facility or area for recreational, cultural, or aesthetic use owned or operated by a public agency and available to the general public. This definition may include, but is not limited to, lawns, decorative plantings, walkways, passive recreation areas, pavilions, wooded areas and water courses.

Park and ride lot means an area or structure intended to accommodate parked vehicles during normal commuting hours, usually 5:00 a.m. to 8:00 p.m., Monday through Friday, where commuters park their vehicles and continue travel to another destination via public transit, carpool, vanpool or bicycle.

Parking lot means a parcel of land devoted to unenclosed parking space which may include partially enclosed structures.

Parking space means a suitably surfaced area, either within or outside of a building, which is sufficient in size to store one standard automobile.

Parks and open space is a use category with uses that focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. These lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking.

Pedestrian way means a right-of-way, dedicated or otherwise assigned to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Pennant means a piece of fabric, plastic, or other flexible medium that may be in the shape of a triangle, rectangle, or other shape, is typically mounted to a flexible cord or rope that is stretched across two points, is mounted in quantity, and spaced along the cord or rope.

Personal vehicles means uses available for automobiles, small trucks or vans, motorcycles, motor homes, recreational vehicles, and recreational boats that provide the following:

- (1) *Rental services*: A facility limited to office space, along with the display of automobiles, which for a fee, are rented or leased.
- (2) *Repair services*: A facility that may provide and specialize in the repair of certain auto parts such as brakes, mufflers, collision repair or transmissions.
- (3) *Sales*: A facility used primarily for the sale of automobiles and trucks.

Pet grooming means a facility for the grooming of pets where no outside runs are provided.

Pet shop means a facility for the display and sale of any fish, birds, dogs, cats and other small animals as pets without involving commercial boarding or the treating of any animal, fish or bird.

Place means an open, unoccupied space dedicated to purposes of access for abutting property.

Planned development means land under unified control, planned and developed as a whole, in a single development operation or a definitely programmed series of development operations, including all lands, and buildings for principal and accessory uses substantially related to the character of the district, according to comprehensive and detailed plans which include not only streets, utilities, parcels or building sites and the like, but also site plans, floor plans, and elevations for all buildings intended to be located, constructed, used and related to each other (to the extent required for determinations to be made under these regulations), and detailed plans for other uses and improvements on the land as related to the buildings, and with a program for provision, operation and maintenance of such areas, improvements, facilities and services as will be for common use by some or all of the occupants of the district, but will not be provided, operated and maintained at general public expense.

Plant nursery and *greenhouse* means a facility or area for the growing, displaying, and sale of plant stock, seeds, or other horticulture items. This may include raising plants outdoors or in greenhouses for sale either as food or for use in landscaping.

Plat, final means a complete and exact subdivision plat, prepared for official recording as required by statute, to define property boundaries, proposed streets, and other improvements.

Plat, preliminary means a formal plan, drawn to scale, indicating prominent existing features of a tract and its surroundings, the general layout of the proposed subdivision, and its relationship to the surrounding area.

Pollution means any alteration of the quality of waters of the state to a degree that they are rendered harmful, detrimental, or injurious to humans, natural life, vegetation, property, or to the public health, safety, and welfare, or otherwise impairs the usefulness or public enjoyment of waters for any lawful and reasonable purpose, including interference with the proper functioning of the municipal separate storm sewer system (MS4).

Porch means a roofed structure projecting from a building, and separated from the building by the walls thereof, and having no enclosed features except roof supports, railing or screen wire.

Portable storage unit means any container designed for the outdoor storage of personal property, including a "POD" or similar storage container, which is typically rented to owners or occupants of property for their temporary use, and which is delivered and removed by vehicle.

Portable structure means a prefabricated structure assembled off-site and delivered to the site as a complete unit or a building purchased in kit form and assembled on-site, which can be moved without disassembly to another location, similar to a kiosk.

Premises means any one or more parcels directly abutting each other and all under the same ownership upon which any building is located.

Principal use means a primary, principal, or dominant use established or proposed to be established on a parcel. In a mixed-use building there may be more than one principal use.

Private restrictions affecting the subdivision means restrictions on private open space used to meet the dedication of land required under this chapter, and restrictions on the common elements for condominium development defined in this chapter.

Promotional event means an event focused on the promotion of a specific product or family of products, and may include outdoor sales or other activities or entertainment designed to entice the public to the business' site.

Public community forest means all street and park trees, and trees owned by the city as a total resource.

Public events means an event or activity open to the public or offered for general public enjoyment with or without an entrance fee, which is sponsored by a not-for-profit organization, or sponsored by a for-profit organization held within a convention type facility having no less than 10,000 square feet of meeting area. Public events held on private property may require a temporary use permit. Public events held on public property may require a special event permit.

Public service facilities means an organization supplying a community with electricity, natural gas, water, or sewer and their accompanying services.

Public view means the normal line of sight from the public street right-of-way adjacent to a site, and from the public pedestrian and motor vehicle areas of travel provided within a site.

Publishing means a facility engaged in creating and printing newspapers, magazines, periodicals and brochures.

Recording studio means a facility for sound recording.

Recreation and entertainment, indoor means any indoor establishment that is a primary use whose main purpose is to provide the general public with an amusing or entertaining activity, and where tickets are sold or fees are collected for the activity. This may include, but not be limited to, skating rinks, bowling alleys, billiard halls and amusement parlors.

Recreation and entertainment, outdoor means any outdoor establishment whose main purpose is to provide the general public with an amusing or entertaining activity, and where tickets are sold or fees are collected for the activity. This may include, but not be limited to, water slides, water parks, miniature golf courses, go-kart tracks, zip-lines and zoos.

Recreation areas and facilities means facilities or equipment that are used for public recreational or natural resource purposes that have a relatively low flood damage potential, and do not involve a structure. This includes, without limitation: bicycle, equestrian or pedestrian trails and paths, benches, ball fields, tennis and basketball courts, interpretive facilities and golf courses.

Recreational vehicle park means any property where one or more lots are rented to users of recreational vehicles, and which are occupied for temporary purposes.

Recycling drop-off center means a facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, plastic, paper, or cardboard for recycling purposes conducted totally within an enclosed structure or container. This definition does not include processing except for "can banks" that crush cans as they are deposited.

Religious assembly means a facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery, or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions. Schools are not accessory uses and shall require approval as separate principal uses.

Rental storage operations means a facility for individuals to rent a space for the purpose of storing their goods or belongings.

Repair, renewal, refurbishment, and restoration are synonymous and may be used interchangeably to mean "to restore to a former, better state, and resembling the original design and construction as closely as possible" when describing a damaged sign or a sign in disrepair.

Replat means a change in the map of a recorded subdivision plat if such change affects any street layout shown on such map, or area reserved therein for public uses, or any parcel line; or if it affects any map or plans legally recorded prior to the adoption of any regulations controlling subdivisions.

Responsible party means the property owner or person authorized to act on the property owner's behalf; or any person allowing, causing, or contributing to a violation of the Code.

Restaurant means an establishment where food and drinks are available to the general public primarily for consumption within a structure on the premises.

Retail is a use category for firms involved in the sale, lease, or rental of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for on-site sale.

Retail, general means a facility or area for the retail sale of general merchandise or food to the general public for direct consumption, and not for wholesale.

Runoff means that part of rainfall that flows off the land into streams or other surface waters.

Satellite antenna or dish means a receiving or broadcasting antenna for television, circular in form and more than three feet in diameter, which may or may not be mounted on wheels for transportation, and, for the purpose of this chapter, shall be considered an accessory building and must meet all regulations concerning such structures.

Satellite earth station. The term "satellite earth station" shall not include any antenna which is mounted to a self-supporting, guyed or monopole antenna support structure.

School, primary or secondary means an institution of learning for minors, whether public or private, which satisfies compulsory education laws of the state, or which is maintained pursuant to standards set by the state board of education. This definition includes a kindergarten, elementary school, junior high school and senior high school.

School, vocational-technical and trade means a facility or area for instruction and training in trades or crafts such as cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities, auto repair, welding, bricklaying, machinery operation, or other similar trades or crafts.

Searchlight means a device, usually consisting of a light and a reflector, for throwing a beam of light in any direction; may also include outdoor laser lights and floodlights.

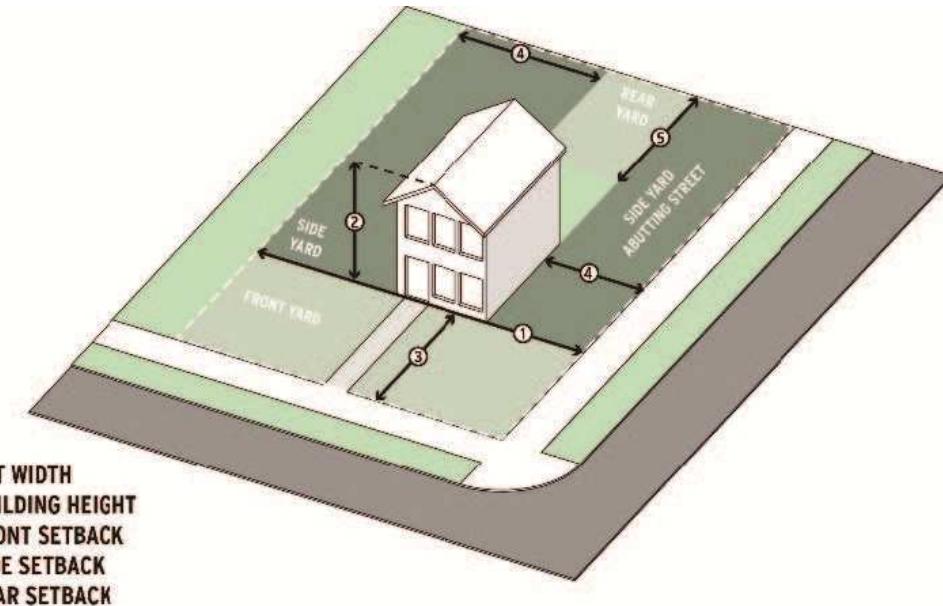
Seasonal decorations means decorations and temporary signs that are clearly incidental, customary, and commonly associated with a holiday, birthday, anniversary, graduation, or similar occasion.

Seasonal sales means the sale of Christmas trees, fireworks, pumpkins, fruits, flowers or vegetables, or other seasonal products, when sold on property other than on the site where grown, constructed, or assembled.

Sediment means mineral or organic matter generated as a result of erosion.

Service station means a facility where gasoline, oil and other requirements for motor vehicles can be bought, and often where maintenance and minor repair work is also done.

Setback line means the line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be placed.



- (1) *Front setback* means the minimum distance required, or maximum distance allowed between a building, structure, or improvement and the front lot line.
- (2) *Interior side setback* means the minimum distance required between a building, structure, or improvement and a lot line that is shared with another lot.
- (3) *Side setback* means the minimum distance required between a building, structure, or improvement and a street on either side of a lot.
- (4) *Rear setback* means the minimum distance required between a building, structure, or improvement and the rear lot line.

Shelter care facility means a facility that provides temporary, overnight shelter and accommodations.

Short-term rental means a dwelling or portion thereof, in which guestrooms are available to transient guests.

Sign means any writing (including letter, word, or number), pictorial representation (including illustration or declaration), product, form (including shapes resembling any human, animal or product form), emblem (including any device, symbol, trademark, object, or design which conveys a recognizable meaning, identity, or distinction), or any other figure of similar character that is a structure or any part thereof, or is written, painted, projected upon, printed, designed into, constructed, or otherwise placed on or near a building, board, plate, or upon any material object or device whatsoever, that by reason of its form, location, manner of display, color, working, stereotyped design, or otherwise attracts or is designed to attract attention to the subject or to the property upon which it is situated, or is used as a means of identification, advertisement, or announcement. The term sign shall not include the following:

- (1) Window displays of merchandise or products;
- (2) Art that does not include commercial speech;

- (3) Products, merchandise, or other materials which are offered for sale or used in conducting a business, when such products, merchandise, or materials are kept or stored in a location which is designed and commonly used for the storage of such products, merchandise, or materials; and
- (4) Any feature of display that would otherwise be considered a sign, but that has been found by the planning commission to be an integral part of a building in either the Downtown District or Entertainment District, and the feature or display contributes to the character of the building.

Sign, a-frame means a sign consisting of two sign faces placed together at an angle of 90 degrees or less to form an "A" shaped structure that tapers from a wide base to a narrow top.

Sign, abandoned means a sign for a business that is no longer in operation at the location, or for which no legal owner can be found, for a period of six months or more.

Sign, attached means a sign that is mounted on, or attached to a structure, including a wall sign, window sign, roof sign, or projecting sign.

Sign, awning means a type of sign with one face affixed to an awning.

Sign, banner means a type of temporary sign that is painted or printed on cloth, vinyl, or other flexible material, which is designed to be stretched between poles, fence posts, or wire, mounted in a freestanding frame, or hung on walls with ties, clips, rails, brackets, hooks, or frames.

Sign, canopy means a type of sign with one face affixed to a canopy.

Sign, changeable copy means a sign for which the informational content can be changed or altered by manual means. A changeable copy sign with copy that is changed electronically is referred to as an electronic message center (EMC) sign.

Sign, damaged means a sign that, for any reason, has received less than 50 percent damage to any combination of the copy area or sign structure.

Sign, destroyed means any sign that, for any reason, has received 50 percent or greater damage to any combination of the copy area or sign structure.

Sign, double-faced means a sign with two faces that are parallel or within 30° of parallel.

Sign, electronic message center (EMC) means an electronic sign that utilizes video content, whether static or motion, to advertise products, services, and businesses, and is digitally programmed and controlled, either directly or indirectly, by the use of a computer or software. The term electronic message center sign includes, but is not limited to, light-emitting diodes, liquid crystal displays, and plasma screen displays.

Sign, freestanding means a ground-mounted sign erected on a permanently set pole or poles, mast, or framework that is not mounted on or attached to a structure; includes an access point sign, monument sign, or pole sign.

Sign, inflatable means a sign that is constructed from an envelope flexible material that is given shape or movement by inflation.

Sign, light pole banner means a banner sign stretched vertically between two horizontal pole extensions that are attached to a light pole within an off-street parking area.

Sign, light projection means any image, text, or other content that is projected onto an outdoor surface (e.g., a building wall, window, or sidewalk) by a laser projector, video projector, video mapping, or other comparable technology, in a location such that the image, text, or content is obviously visible from outside of the property.

Sign, marquee means a sign attached to a marquee.

Sign, monument means a sign supported by the ground and not attached to a building or structure, and where the bottom edge of the sign structure is on or in the ground.

Sign, moving billboard means a sign attached in any way to a vehicle operating in the public right-of-way, that is used for the primary purpose of advertising, and where the vehicle is either: (1) not used primarily for the transportation of passengers for hire or goods, or (2) is not designed for the transportation of passengers for hire or goods.

Sign, multi-tenant monument means a monument sign permitted for a property with three or more tenants, as identified by individual tenant addresses.

Sign, off-premises means a sign advertising any product, service, use, or enterprise sold or offered at a location other than the property where the sign is physically located.

Sign, on-premises means a sign advertising any product, service, use, or enterprise sold or offered at the location where the sign is physically located.

Sign, on-vehicle means any magnetic sign(s), signs painted or wrapped on, adhesive vinyl film affixed to a window, or attached by other temporary or permanent means to a vehicle, where the vehicle is owned by the business, is operable and properly licensed, and the vehicle is regularly and consistently used in the normal daily conduct of the business, such as delivering or transporting goods or providing services related to the business.

Sign, pole means a sign which is supported by one or more uprights, poles, or braces affixed to the ground, and not attached to a building or structure.

Sign, portable means a sign that is not affixed to a structure and can be moved from one location to another without disassembly.

Sign, projecting means a vertical edge mounted sign that is attached directly to the wall of a building, and which extends at least one foot from the face of the wall, and is typically mounted perpendicular to the wall surface.

Sign, rider means a subordinate sign that is attached to a temporary sign, either above or below the sign face.

Sign, roof means a sign erected on a roof, including a mansard type roof, where any portion of the sign extends above the roofline of a building or structure, or that is mounted upon the horizontal plane of a flat roof structure, which may include the roof of a canopy or porte-cochère that is attached to a building.

Sign structure means the base, footer, support poles, framing, and all other parts and components onto which the copy area is resting or attached.

Sign, subdivision means a monument sign located at the entrance of, and identifying the name of a legally platted subdivision of land.

Sign, temporary means a sign that is: (1) constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight material not well suited to provide a durable substrate; or (2) if made of some other material, is neither permanently installed in the ground, nor permanently affixed to a building or structure that is permanently installed. Temporary signs may include rider signs.

Sign, under canopy means a sign that is suspended beneath an awning, canopy, ceiling, soffit, or roof.

Sign, wall means any sign painted on, attached to, or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall, and extending not more than two feet from the face of the wall, and not extending above the highest point of the wall.

Sign, walker means a person who carries a sign which is worn, held, or balanced by that person, and is not installed or attached to real property.

Sign, wind means a display of pennants, streamers, balloons, whirligigs, wind blades, or similar devices, activated by wind.

Sign, wind blade, feather, or teardrop (referred to as "flutter flags") means a piece of cloth or other similar material, varying in size, color, and design, that is attached to a pole or staff, and may be in the shape of a vertically-oriented rectangle, teardrop, or similar, where typically the cloth or material is supported by wire to maintain the shape of the flag.

Sign, window means a solid or transparent sign that is: (1) painted on or affixed to either side of a window or door, or (2) a sign or display internal to a window or door that is within five feet and can be seen from the outside.

Sign, yard means a type of temporary sign that is constructed of paper, vinyl, plastic, wood, metal, or other comparable material, which is mounted on a stake or a frame structure (often made from wire) that includes one or more stakes.

Signage means any graphics, symbols, or written copy designed specifically for the purposes of advertising or identifying an establishment, product, goods or services.

Single housekeeping unit means any household whose members are an interactive group of persons jointly having access to, and use of, all common areas of a dwelling unit including living, kitchen, and eating areas, and sharing household activities and responsibilities such as meals, chores, expenses and maintenance, and whose makeup is determined by the members of the unit rather than by the landlord, property manager, or other third party.

Slope means the inclination of the soil surface from the horizontal. Slope percent is the vertical distance divided by the horizontal distance, then multiplied by 100.

Sound pressure level (SPL) means the sound pressure levels stated in dB units referenced to 20 micropascals, with a C frequency weighting and measured as Leq (equivalent continuous sound level) over a 15-minute measurement period (reference ANSI S1.4/IEC 61672 and IEC 801-22-16).

Special event means a preplanned, single gathering event or series of related consecutive daily gatherings or events, of an entertainment, cultural, recreational, educational, political, religious, sporting, or of any other nature, sponsored by an individual or entity, and which could result in activity impeding or impairing the normal flow of vehicles and pedestrians on streets, sidewalks or other public facilities used primarily for travel; require the partial closing or obstruction of such; or requires the necessity of public safety or traffic control measures not already provided at the proposed site of the event.

Special use means the use of land other than that permitted in a particular zoning district. Special use requires a permit from the planning commission as described in this chapter.

Sponsor means to conduct, stage, present or organize a special event. A sponsor under this definition shall be in charge of the event, or have primary control of its conduct, staging, presentation, or organizing.

Stables means a structure or land, in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

Stormwater means any surface or shallow subsurface flow, runoff, or drainage consisting entirely of water from rainstorm or frozen precipitation events.

Stormwater pollution prevention plan (SWPPP) means a plan to establish controls to limit erosion and transport of sediment and other pollutants from the site.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Stream means a flow of water in a channel or bed, as a brook, rivulet, or small river.

- (1) *Perennial stream* means a stream, or reach of a stream, that normally flows continuously throughout the year. Perennial streams are those which are depicted on a United States Geological Survey (USGS) map with a solid, blue line.
- (2) *Intermittent stream* means a stream have flowing water periods during the wet season (winter thru spring), but are normally dry during summer months. Intermittent streams are those which are depicted on a United States Geological Survey (USGS) map with a dotted, blue line.

Street, arterial means a street or road of considerable continuity which serves, or is intended to serve as a principal traffic way between separate areas or districts, and which is the main means of access to the collector street system, highways, or expressways.

Street, collector means streets, which, in addition to serving abutting properties, intercept local streets, connect with community facilities, and carry neighborhood traffic to the arterial street system.

Street, commercial means a street used to provide access to abutting commercial properties.

Street, frontage or service means a street which is generally parallel to, and adjacent to, a major highway or railroad right-of-way, and which provides access to abutting properties, and protection from through traffic.

Street line means the dividing line between a tract or parcel of land and a street.

Street, local means a street designed to provide access to abutting properties from collector and arterial streets.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, floor joists, roof joists or girders, or any substantial change in the roof or exterior walls.

Structure area means the total surface area of the structure of a monument sign that supports its copy area and contains dimensional or material differences from the plane of the sign face.

Studio—Art, fitness, music, dance means a small-scale facility for the production of or education in a fine art, dance, or performance program. Examples of these facilities include: individual and group instruction and training in the arts and production rehearsal, photography and the processing of photographs produced only by users of the studio facilities, martial arts training studios, and gymnastics instruction and fitness centers. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

Subdivision means a division of a parcel of land into two or more parcels for the purpose of transfers of ownership or development, whether immediate or future, including all changes in street or parcel lines. The term "subdivision" includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, map, plat, or other recorded instrument, and further includes the creation of a condominium, townhouse, or any other division of property into units.

Substantial rain event means a rain event which has a rainfall intensity that causes erosion or a rain event that exceeds one inch within a 24-hour period.

Tattoo parlor means an establishment whose business activity, either in terms of operation or as held out to the public, is the practice of placing designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substance that results in the permanent coloration of the skin, by means of the use of needles or other instruments designed to contact or puncture the skin.

Temporary office facilities means a temporary portable unit for office or real estate sales use.

Temporary use means a use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time, and does not involve the construction or alteration of any permanent structure.

Temporary vehicle washes means a car or vehicle wash conducted as a temporary activity rather than as a permanent business, typically for fundraising.

Tenant means a single incorporated use of a premise for which a certificate of occupancy has been issued, which is separated from another business by demising walls and has a separate entrance.

Terrace means an artificial or natural embankment in the area between a building and a parcel line.

Theater means a building, room, or other setting for showing movies, or for where plays, dramatic presentations or other live entertainment is performed.

Thrift store means a profit or nonprofit business or organization that engages in, or specializes in, the sale or resale of previously owned or used goods and merchandise from an area greater than 25 percent of the total floor area devoted to retail sales, and whose merchandise is donated, or principally donated.

Timeshare periods means all periods of time when a purchaser of a timeshare plan is entitled to the possession and use of the accommodations or facilities, or both, of a timeshare plan regardless of whether such periods are designated as one or more specific days, weeks or months.

Timeshare plan means any arrangement, plan, scheme or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right-to-use agreement or any other means, whereby a purchaser, in exchange for a consideration, receives one or more timeshare periods, or any type of interval or joint ownership in, or a right-to-use, any accommodation or facility for a period of time which is less than a full continuous and uninterrupted year during any given year, and which extends for a period of time more than three years, as to each individual timeshare development subject to purchase.

Timeshare unit means an accommodation or facility of a timeshare plan which is divided into timeshare periods, or is otherwise subject to interval or joint ownership, or use by the purchaser of the timeshare plans.

Transparent means having the property of transmitting light through its substance so that objects behind can be distinctly seen.

Transportation is a use category that includes uses involving public and private modes of vehicular transportation.

Trees, park means trees, shrubs, and all other woody vegetation in public parks.

Trees, street means trees, shrubs, and all other woody vegetation on land lying between a property line on either side of all streets, avenues, and rights-of-way.

Truck stop means a development oriented to the service of trucks, including the sale of fuel to truck drivers, and provision for support facilities for truck drivers. Truck stops are designed to accommodate

trucks and truck drivers, and may also be utilized by nontruck traffic. This facility allows for the temporary, daily, or overnight parking (excluding for the loading and unloading of cargo) of commercial motor vehicles which are en-route to, or from a destination, along a highway or roadway for free or for a fee that may be independent of any other use on the premises. The term "truck" shall mean a commercial vehicle driven by a 'truck driver' who is required to have a Class "A" CDL (commercial driver's license) license or equivalent.

University or college means an academic institution of higher learning beyond the level of secondary school.

Urgent care facility means a facility licensed by the Missouri Department of Health and Senior Services that provides emergency medical services with no provision for continuing care on an inpatient basis.

Utility is a use category for the use of land for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity.

- (1) *Utilities, major facilities/service yard* means infrastructure services that have substantial land use impacts on surrounding areas. Typical uses include, but are not limited to, water and wastewater treatment facilities, major water storage facilities and electric generation plants. This definition also includes service yards for utility providers.
- (2) *Utilities, minor facilities/office* means infrastructure facilities and services that need to be located in the area where the service is to be provided such as water and sewer pump stations, electrical transforming substations, wind energy conversion systems, solar collector systems, water conveyance systems or gas regulating stations.

Vehicles and equipment is a use category for uses involving the sale, rental or repair of personal and commercial vehicles.

Vending cart means a readily movable, nonmotorized cart equipped to prepare, store, serve, or sell food and beverages, and not exceed a size of eight feet in height, four feet in width, and ten feet in length, excluding roof overhangs and wheels.

Veterinary services means a facility for the diagnosis and treatment of pets and other animals including, but not limited to, dogs, cats, birds, and horses. No outside boarding of these animals shall be allowed overnight.

Wall face means the area determined by multiplying the linear footage of the wall times the vertical height of the wall.

Warehouse means:

- (1) *Commercial:* The indoor storage of materials, equipment or products. Warehousing does not include self-storage facilities.
- (2) *Self-storage/personal property:* A building or group of buildings of one or more levels with, usually, but not limited to, the following characteristics: controlled access and secured areas which contain varying sizes of individual compartmentalized and controlled-access stalls or lockers for the dead storage of customer's goods or possessions.

Wares means an article of merchandise that is being presented outside of the business selling it.

Waste and salvage is a use category for uses that collect, store, process, or sell waste or salvage materials, or collect and process recyclable material, for the purpose of marketing or reusing the material in the manufacturing of new, reused, or reconstituted products.

Water body means a type of (permanent open) water area that includes ponds, lakes, reservoirs, bays or gulfs, and estuaries.

Waters of the state means all rivers, streams, lakes, and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased, or otherwise controlled by a single person, or by two or more persons jointly or as tenants in common, and includes waters of the United States lying within the state.

Water quality standards means the standards required under the Clean Water Act, which the state has adopted to control and remedy water pollution. Water quality standards have three parts: water use classifications, water quality criteria, and an anti-degradation policy.

Welding and automobile body shop means a facility that provides substantial motor vehicle body repair, painting or undercoating services, and collision repair services.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at, or near the surface, or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Wholesale sales and distribution is a use category for facilities used for the sale, lease, or rent of products primarily intended for industrial, institutional or commercial businesses. The uses emphasize on-site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on-site or delivered to the customer.

Wireless communication facility:

- (1) *Antenna* means a transmitting or receiving device used in telecommunications that radiates or captures radio signals.
- (2) *Antenna support structure* means any building or other structure which can be used for location and support of telecommunication facilities.
- (3) *Small wireless facility* means a type of wireless broadband infrastructure that typically takes the form of small antennas placed on existing infrastructure and ground mounted equipment.
- (4) *Telecommunication facility* means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of telecommunications as authorized by the Federal Communications Commission (FCC) located or proposed to be located or installed upon a telecommunications tower. The term "telecommunication facility" does not include:
 - a. Any satellite earth station which is utilized for the reception of broadcast television, video or radio signals, and which is on the same premises as and ancillary to the primary use of a television or radio station.
 - b. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned and used for industrial or commercial purposes.

- c. Any satellite earth station antenna one meter or less in diameter, regardless of zoning district.
 - d. Any telecommunications antenna located upon any city-owned structure with the approval of the city administrator.
- (5) *Telecommunication tower* means a self-supporting lattice, guyed or monopole support structure constructed from grade which supports telecommunication facilities. This term shall not include:
- a. Amateur radio operator equipment as licensed by the FCC.
 - b. Utility poles which are utilized for the support of electrical, telephone, cable television, or other similar cables and wires located in public rights-of-way or other public easements, and are part of a system of such poles throughout the city.
- (6) *Wireless facility* means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications and radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include:
- a. The structure or improvements on, under, or within which the equipment is collocated;
 - b. Coaxial or fiber-optic cable between wireless support structures or utility poles;
 - c. Coaxial or fiber-optic cable not directly associated with a particular small wireless facility; or
 - d. A wireline backhaul facility.
- (7) *Wireless infrastructure provider* means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment or wireless facilities, but that is not a wireless services provider.
- (8) *Wireless provider* means a wireless infrastructure provider or a wireless services provider.
- (9) *Wireless services* means any services using licensed or unlicensed spectrum, including the use of wifi, whether at a fixed location or mobile, provided to the public using wireless facilities.
- (10) *Wireless services provider* means a person who provides wireless services.

Wrecker service means a facility or area in which two or more tow trucks are employed in the hauling of motorized vehicles and for the storage of vehicles that have been towed, repossessed, or otherwise in the care and custody of the operator of the lot, but not disassembled or junked.

Yard means an open and unoccupied space on a building site, and except as otherwise provided in this chapter, open and unobstructed from the ground to the sky.

- (1) *Yard, front*, means that portion of the yard extending across the front of a parcel between the street line and the front building line, not including steps, terraces, unenclosed balconies and unenclosed or screened porches.
- (2) *Yard, rear*, means that portion of the yard, on the same parcel with a building, between the rear building line and the rear parcel line, for the full width of the parcel (in those locations where an alley is platted in the rear of the parcels, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies and unenclosed porches.

- (3) *Yard, side*, means that portion of the yard along each side of a building between the building line and the side line of the parcel extending from the front yard to the rear yard, not including steps, balconies or porches.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2018-0067, § 2, 7-10-2018; Ord. No. 2018-0068, § 2, 7-10-2018; Ord. No. 2018-0195, § 2, 12-11-2018; Ord. No. 2019-0027, § 2, 3-12-2019; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2019-0131, § 2, 9-24-2019; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2020-0155, § 2, 11-10-2020; Ord. No. 2020-0156, § 2, 11-10-2020; Ord. No. 2021-0101, § 2, 9-14-2021; Ord. No. 2023-0081, § 2, 8-8-2023; Ord. No. 2024-0071, § 2, 8-13-2024; Ord. No. 2024-0086, § 2, 10-8-2024)

ARTICLE II. RULES AND REGULATIONS

Sec. 94-6. Common procedures.

The following procedures are applicable to all applications submitted to the city pursuant to this chapter.

(a) *Pre-application conference.*

- (1) A potential applicant may request a pre-application conference with the planning and development director, and shall pay the required fees, if any. The planning and development director shall determine what other city representatives will be necessary to review the proposed application, and notify them of the meeting. With the request for a pre-application conference, the applicant shall provide to the planning and development director sufficiently detailed plans and descriptions of the proposal for staff to make informal recommendations regarding the proposed project. The planning and development director may determine that the information provided is insufficient and request additional information. If the applicant fails to provide sufficient information for a pre-application meeting and seeks to proceed with the application process, the planning and development director shall notify the planning commission or the board of the applicant's lack of a sufficient submission for pre-application review.
- (2) The informal evaluation conducted by the planning and development director and staff provided at the pre-application conference are not binding upon the applicant or the city. A pre-application conference precedes the actual application, so some key issues relating to a specific proposal may not be apparent at the pre-application conference and may require additional review, submissions, or studies later in the application process.

(b) *Application requirements.* The applicant shall submit the application to the planning and development director. Application submittal requirements for every application type shall be established by the planning and development director on submittal forms available from the planning and development department or on the city's website. The planning and development director may waive submission requirements where appropriate for specific applications.

(c) *Reports and studies.*

- (1) Reports or studies may be necessary to adequately evaluate the consequences of a proposed development, and may be required as part of a specific application. These may include, but are not limited to, studies of soils, geological hazards, fiscal impacts, market analysis, traffic impacts, and environmental impacts.
- (2) The applicant shall furnish the reports or studies needed at the applicant's cost, or at the city's discretion, pay appropriate cost of the study to the city so that the city may retain a consultant to prepare the required study.
- (3) All required reports or studies shall be executed by professionals or other persons qualified to provide the requested reports. Failure of the applicant to select a city-approved professional or consulting firm may result in the city's refusal to consider the report or study, or denial of the application.
- (4) Stormwater drainage. Stormwater detention facilities may be required by the public works director in accordance with the Design Criteria for Public Improvement Projects, which is on file with the city clerk's office. Existing drainage patterns shall be studied in

order to ensure minimal impact to downstream properties as a result of a proposed subdivision. The results of such analysis shall be depicted on the required drainage plan, which shall also include the following information:

- a. Location and elevations (before and after development) of all defined floodplains affecting the property;
- b. Location and elevations of all existing and proposed utilities affected by, or affecting, the drainage design;
- c. Routing of off-site drainage flow through the development;
- d. Routing and accumulation of flows at various critical points for the appropriate design storm;
- e. Proposed points of release for runoff from the development and proposed management methods to minimize impact on downstream properties. Any temporary or permanent facility designed and constructed for the conveyance of water shall be designed to limit the water flow to a non-erosive velocity;
- f. Details of proposed detention storage facilities, where required; and
- g. Proposed storm sewers and open drainageways, and the location of connections to existing drainage systems.

(5) Traffic impact analysis.

- a. *Traffic impact analysis required.* The transportation system for new development shall be capable of supporting the proposed development in addition to the existing and future uses in the area. Evaluation of system capacity shall be undertaken through a traffic impact analysis (TIA) that should consider the following factors without limitation: street capacity and level of service, vehicle access and loading, on-street parking impacts, the availability of transit service and connections to transit, impacts on adjacent neighborhoods, and traffic safety including pedestrian safety. A TIA shall be required and submitted with applications for development review and approval when:
 - (i) Trip generation during any peak hour is expected to exceed 250 trips per day, or more than 100 trips during any one-hour peak period, based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual (or any successor publication);
 - (ii) A TIA is required by the planning commission or board as a condition of any special use permit approved pursuant to the requirements of these regulations; or
 - (iii) The planning and development director or public works director requires a TIA for:
 1. Any project that proposes access to a street with level of service "D" or below;
 2. Any application for a major subdivision;
 3. Any case where the previous TIA for the property is more than two years old;
 4. Any case where increased land use intensity will result in increased traffic generation; or
 5. Any case in which the planning and development director or public works director determines that a TIA should be required because of other traffic concerns that may be affected by the proposed development.

- (iv) Traffic impact analysis and development review process. A scoping meeting between the developer, planning and development director, and public works director shall be required prior to the start of the TIA in order to determine the parameters of the study. This may be conducted as part of a pre-application meeting. The planning and development director or public works director shall define the vicinity of the TIA study in as limited a geographic area as is feasible to make adequate traffic determinations for the project. Where a larger boundary is necessary to make adequate traffic determinations, the city shall work with the applicant to provide traffic information and perform such modeling as is necessary to study the area outside of the project vicinity.
- b. *Traffic mitigation measures.*
- (i) The applicant shall, as part of the TIA, recommend measures to minimize and mitigate the anticipated impacts, and determine the adequacy of the development's planned access points. Mitigation measures shall be acceptable to the city and may include, without limitation: an access management plan, transportation demand management measures, street improvements on or off the site, placement of proportionate pedestrian, bicycle, or transit facilities on- or off-site, or other capital improvement projects such as traffic calming infrastructure or capacity improvements.
 - (ii) Following city approval of the TIA, the applicant and the city shall enter into an agreement specifying the implementation program and timeframe for the required traffic improvements, and identifying mitigation requirements where the project construction timeframe varies from the anticipated traffic improvement timeframe.
- (d) *Fees.*
- (1) Fees for the review of an application shall be established from time-to-time by the board. Application fees are in the amount provided in the city fee schedule.
 - (2) The city may also assess and collect such additional fees as it may deem appropriate; provided that, when operating pursuant to the authority granted by this provision, the city shall base such additional fees upon the actual cost, whether by city employees or independent third parties, of performing related plan and document preparation and review, inspection of construction of public and related improvements, and all related services, including attorney and engineering fees. Such additional fees may be charged on a per-unit basis, such as foot or mile, and the city may also include in such additional fees a factor for overhead or other indirect expenses.
 - (3) The following shall apply to actions taken on a complete application:
 - a. *Withdrawn application:* All fees are forfeited; the fee must be paid again in full if the application is resubmitted.
 - b. *Continuance of application:* Payment of fees may be required to cover the cost of additional notice.
 - c. *Reapplication, resubmission:* Payment of fees shall be required for a reapplication or resubmission where a previous application has been denied.
 - d. *Modification or revision of approved sketch or preliminary plan:* Payment of the application fee shall be required to cover costs of re-review, less the cost of notice.

(e) *Complete and sufficient application.*

- (1) Applications shall not be processed until all materials have been submitted and are deemed sufficient in form and content such that recommendations, as required, and a decision may be made on the application by the city officer or body authorized to review the application. The planning and development director shall determine application sufficiency.
- (2) If an application is deemed insufficient, the planning and development director shall inform the applicant within 15 working days of the specific submittal requirements that have not been met. The planning and development director may provide notice in writing, electronically, or in conversation with the applicant.
- (3) If an application is deemed insufficient, the applicant must resolve and resubmit the materials required to complete the application within 30 days of the original submission of the application. An insufficient application that has not been revised to meet the completeness requirements shall expire on the thirtieth day. An expired application shall be returned to the applicant along with any original documents submitted in support of the application. The city may retain the application fee paid. Once an application has expired, the application must be resubmitted in full.

(f) *Review and approval criteria.* To recommend or approve a development application, the review or decision-making body, as applicable, shall find that the development application has satisfied and followed the applicable requirements of this chapter, and meets all of the approval criteria required for the applicable development application as established in the individual application types in this chapter.(g) *Conditions.*

- (1) The review or decision-making authority may recommend or impose such conditions upon the subject development as is necessary to carry out the general purpose and intent of this chapter. Conditions and additional information requirements shall be in written form and attached to the approved plan, plat or permit.
- (2) Conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development, and shall be based upon adopted standards.
- (3) The decision-making authority may place specific time limits on the satisfaction of any condition of approval.
- (4) The decision-making authority may require financial guarantees from the applicant where it finds such guarantees are necessary to ensure compliance with conditions of approval, and protect the public health, safety or welfare. The city shall release such guarantees when the planning and development director has determined that all conditions attached to the approval have been, or will be satisfied.

(h) *Continuation.*

- (1) The planning commission or board may continue a hearing on its own initiative, or at the request of the applicant.
- (2) Where the applicant requests continuation after provision of notice, the cost of renotification shall be borne by the applicant.
- (3) Applicants shall be limited to two requests for continuance. If the application is not heard following the second request, it shall be considered withdrawn and the applicant will be required to resubmit the application for further consideration.

- (i) *Lapse.* Except as otherwise specified in the specific procedure sections of this chapter, an approval granted under this chapter shall lapse and shall become void two years following the date of final approval unless, prior to the expiration date, a building permit based upon such approval is issued and construction is commenced and diligently pursued toward completion.
- (j) *Extension.* An approval may be extended by the body that issued the original approval for up to one year. Requests for extensions of more than one year must show good cause for need for extension. The applicant shall submit a request for an extension in writing to the planning and development director at least 60 days prior to the date of approval termination. This section shall not be applicable to applications and approvals that pre-date the adoption of this section.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-7. Changes in zoning districts.

(a) General procedure.

- (1) Changes in the zoning district of a tract or parcel of land located in the city shall be made by ordinance by the board upon recommendation by the planning commission after notice and hearing as provided by law. Every such ordinance shall legally describe the particular tract or parcel of land, and the change being made in its zoning district. Each ordinance may contain more than one change of zoning.
- (2) Upon the adoption by the board of an ordinance change of the district of any tract or parcel of land, the planning commission shall cause the change to be made on the official zoning map so that the map shall at all times reflect current zoning district of any tract or parcel of land in the city.

(b) *Changes by the board.* The board may from time to time amend the district boundaries or regulations contained in this chapter; provided such proposed change is first submitted to the planning commission for recommendation and its report; and provided that no less than 15 days' notice of such proposed change shall first be published in the newspaper in the city, and a hearing is granted to any person interested at a time and place specified by such notice. If a protest against such amendment is presented, duly signed and acknowledged by the owners of 30 percent or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be changed, such amendment shall not be passed, except by at least two-thirds vote of the board.

(c) Changes by other individuals or groups.

- (1) Application for any change in district boundaries of any tract or parcel of land shall be filed with the planning and development director and shall be accompanied by such data and information as may be prescribed by the planning commission so as to ensure the fullest practicable presentation of facts for the permanent record.
- (2) The application shall only be filed by the owner of the property seeking a change of district, or by a person having a contract to buy such a property. In the event of a denial of such application, reapplication by the same applicant may be filed no less than 60 days following such denial.
- (3) To defray costs of proceedings prescribed herein, filing and publication fees shall be paid upon the filing of each application for a change of districts.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-8. Subdivisions.(a) *Generally applicable requirements.*

- (1) *Lapse and expiration.* The following provisions are applicable to subdivision approvals:
- a. *Preliminary plat.* Approval of any preliminary plat shall be effective for a period of two years, at the end of which time the first phase of the final plat must be submitted. Approval of the preliminary plat remains in effect continuously if final plats are being filed and approved. If the final plat has not been submitted within two years, or subsequent phases are not submitted and approved every two years, the preliminary plat shall be void and the applicant shall be required to submit a new preliminary plat.
 - b. *Previously approved preliminary plat.* Any plat approved in accordance with regulations in effect prior to the effective date of the ordinance amending this chapter shall be deemed to have been approved as a preliminary plat. Such approval shall be effective for a period of two years from the effective date of the ordinance amending this chapter. If a final plat has not been submitted within two years, the development plan shall be considered void and the applicant shall be required to submit a new preliminary plat in accordance with this article.
 - c. *Final plat.* If a final plat is not recorded within two years of the effective date of the ordinance approving it, the approval shall become void and a new preliminary plat must be submitted to the planning commission and board for its consideration.

(b) *Classification of subdivision processes.*(1) *Minor subdivision.*

- a. An applicant shall submit an application for minor subdivision if a proposed subdivision or reconfiguration of land does not:
 - (i) Contain more than three parcels, each of which has frontage on an existing street;
 - (ii) Involve any new street or the extension of municipal facilities, or the creation of any public improvements;
 - (iii) Adversely affect the remainder of the parcel or adjoining property; or
 - (iv) Conflict with any provision or portion of the comprehensive plan, major street plan, zoning regulations, or any currently adopted city engineering or design specifications.
- b. The creation of new parcels through a minor subdivision will require payment of all required impact fees and dedication on the same basis as creation of new parcels in a regular subdivision.
- c. Parcels are eligible for minor subdivision only once, and further subdivision of the original or newly created parcels shall be processed as a major subdivision.

(2) *Major subdivision.* All subdivisions other than minor subdivisions shall be processed as major subdivisions.(3) *Condominium split.*

- a. An applicant shall apply for a condominium split if the proposed subdivision meets the following criteria:
 - (i) Each parcel shall have frontage on, or permanent and continuous access through common elements to, existing public streets;

- (ii) The project shall not involve any new street, the extension of municipal facilities, or the creation of any public improvements;
 - (iii) The project shall not adversely affect the remainder of the parcel or adjoining property; and
 - (iv) Neither the project nor the use of a condominium split are in conflict with any provision or portion of the comprehensive plan, major street plan, or zoning regulations, and shall otherwise be in conformance with all applicable city regulations.
- b. Once a final plat has been approved and recorded on property used for condominium construction, the owner may proceed with the condominium split procedure in lieu of the normal requirements of subdivision as outlined in this article.
- (c) *Minor subdivision review.*
 - (1) *Application submission.*
 - a. The applicant shall be required to submit an application for a minor subdivision on forms available from the planning and development department along with the applicable fee as provided in the city fee schedule.
 - b. The application shall include a certified plat for review.
 - (i) The certified plats shall be prepared by a registered surveyor in conformance with this section.
 - (ii) The plats shall show all existing buildings, utilities, sanitary sewers, water mains, drainage ditches, easements, and other features pertinent to proper land division and compliance with this chapter. The planning and development director may require additional information as necessary for making a determination.
 - (2) *Review and approval.*
 - a. Minor subdivision applications will be reviewed by the planning and development director, public works director, and utilities director to determine if they meet the requirements for the minor subdivision procedure.
 - b. If the application is determined to be eligible for the minor subdivision process, the planning and development director will notify the applicant in writing of the approval, conditional approval, or rejection of the plat within 21 days of receipt of a complete application.
 - c. The determination of the planning and development director shall be the final action on minor subdivision procedures. If the minor subdivision is denied, the applicant may appeal to the board of adjustment in accordance with the procedures in this chapter.
 - (3) *Recordation.*
 - a. When conditional approval of the minor subdivision is granted, the conditions imposed shall be complied with prior to the documents being signed and recorded.
 - b. If approval of the minor subdivision is granted, the applicant shall pay any applicable fees from new parcels created and shall supply the city with five paper copies. These documents shall show all information required under this chapter and the signature block shall read:
The undersigned proprietors of the property described herein have the same to be subdivided in the manner shown on this plat, and said property shall hereafter be known as _____.

It shall be sufficient description of the parcels on this plat to hereafter designate the same by the number appearing near the center of the parcels followed by the block number appearing near the center of the respective blocks followed by the words _____:

An easement or license is hereby granted to the City of Branson, Missouri, to locate, construct and maintain, and to authorize the location, construction, maintenance, or use of conduits, for all and any purpose, water, gas, and sewer mains, poles, wires, anchors and appurtenances thereto, or any or all of them over, under, and along the strip of land outlined on this plat and designated "UTILITY EASEMENT" or "U.E."

In testimony whereof, the undersigned proprietors have hereunto set their hands this _____ day of _____ 20____.

STATE OF MISSOURI

COUNTY OF TANEY

On this _____ day of _____,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State and day and year last written above.

Notary Public

My Commission Expires:

Approved by the Planning and Development Director and the Public Works Director, under the authority of the Mayor and Board of Aldermen of Branson, Missouri this _____ day of _____ 20 ____.

Planning and Development Director

Public Works Director

c. Any signature shall have the corresponding name typed, printed or stamped beneath the signature.

(d) *Major subdivision review.*

(1) *Generally.* All major subdivisions are processed in two stages: 1) the preliminary plat, and 2) the final plat. The final plat can only be filed with the city for review and processing after the preliminary plat has been approved or conditionally approved by the board of aldermen. Specific procedures for preliminary and final plats are outlined below.

(2) *Preliminary plat application process.*

a. Prior to filing a preliminary plat for review, an applicant may submit the preliminary plat for pre-application review. As far as may be practical on the basis of the preliminary plat, the planning and development director will, in writing, advise the applicant as promptly as possible of the extent to which the proposed subdivision conforms to the design standards in this section, and will discuss possible modifications that may be necessary to secure conformance.

- b. An applicant shall be required to submit an application for a preliminary plat on forms available from the planning and development department along with the applicable fee as provided in the city fee schedule. The application shall include a certified preliminary plat and shall be submitted at least 30 days prior to a regular meeting of the planning commission at which consideration is requested.
- (3) *Preliminary plat application content.*
- a. Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.
 - b. Location of boundary lines in relation to section, quarter section, or quarter-quarter section lines, and any adjacent corporate boundaries comprising a legal description of the property.
 - c. Names and addresses of the developer and the surveyor, engineer, or landscape architect preparing the preliminary plat.
 - d. Scale of plat, one inch equals 100 feet, except a scale of one inch equals 200 feet shall be used where the size of the ownership is such that an unwieldy sheet size would be required.
 - e. Date and north point.
 - f. Existing conditions on the proposed subdivision site and adjacent to the site within 200 feet of the property lines.
 - g. Locations, width, and name of each existing or platted street or other public right-of-way, railroad and utility easement, parks and other public open spaces, and permanent buildings within or adjacent to the proposed subdivision.
 - (i) All existing sewers, water mains, gas mains, culverts, or other underground installations within the proposed subdivision or adjacent thereto, with pipe size, grades, and locations shown.
 - (ii) Names of adjacent subdivisions and owners of adjacent parcels of unsubdivided land.
 - (iii) Topography, unless specifically waived, with contour intervals of not more than two feet, refer elevation to United States Geological Survey (USGS) datum; also the locations of watercourses, floodplains, ravines, bridges, lakes, and wooded areas, approximate acreage, and such other existing features as may be pertinent on the site and adjacent to the proposed subdivision. In areas where grades are gentle, the planning and development director may require a lesser contour interval.
 - (iv) Special features such as ponds, dams, steep slopes, or unusual geology, or unusual history, such as former dumps, fill areas, or lagoons, must be identified by the applicant. The applicant will be required to provide professional analysis of these conditions to address questions related to the proposed subdivision.
 - h. Proposed development:
 - (i) The general location, width, and name of proposed streets, roadways, alleys, pedestrian ways, and easements. Street names shall not closely duplicate or resemble names of existing streets.
 - (ii) The general location and character of all adjacent existing public utility lines, including sewers (storm and sanitary), water lines, and power lines.
 - (iii) The general location, footprint, and volumes of all detention, retention, or low impact development.
 - (iv) Layout, number, and approximate dimensions of parcels.

(v) Location and size of proposed parks, playground, churches, school sites, or other special uses of land to be considered for public use or to be reserved by deed or covenant for the use of all property owners in the subdivision. Off-site impacts of preliminary plats will be evaluated. The applicant may be required to furnish engineering studies or revised layouts in response to identified off-site impacts.

i. A vicinity sketch (location map), at a legible scale to show the relation of the plat to surroundings, shall be shown on the preliminary plat. Utility connections too remote to be shown on the preliminary plat shall be shown on this sketch.

(4) *Preliminary plat review and approval.*

a. The planning commission will recommend action on preliminary plats to the board based on the planning commissions' review of the following criteria:

(i) Evidence of substantial compliance with the purpose and intent provisions of these regulations and the zoning code;

(ii) Consistency with the adopted comprehensive plan;

(iii) Physical suitability of the land for the proposed development or subdivision;

(iv) Compatibility of the subdivision design and development intensity with surrounding land uses;

(v) Whether there are adequate facilities available to serve the development as designed;

(vi) Evidence of approval by the appropriate utilities, including water and sewer;

(vii) That the general layout of lots, roads, driveways, sidewalks, utilities, drainage facilities, and other services within the proposed subdivision are designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees, vegetation, riparian areas, and other natural features, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of these regulations.

(viii) Evidence that provision has been made for a public sewage disposal system.

(ix) Evidence that all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions.

(x) Provision has been made for assumption of responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision.

(xi) As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.

b. Approval or disapproval of the preliminary plat will be by board resolution, a copy of which will be conveyed to the applicant in writing after the meeting of the board at which such plat was considered. In case the plat is disapproved, the applicant shall be notified of the reasons for such action and what requirements will be necessary to meet the approval of the board.

c. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat.

(5) *Construction plans.*

- a. Upon approval of the preliminary plat by the board, the applicant shall prepare and submit to the public works director four prints of the following:
 - (i) Preliminary plans and profiles of all public streets, showing sidewalks, proposed streetlight locations, and landscaping as required by this chapter.
 - (ii) Preliminary plans and profiles of sanitary sewers.
 - (iii) Preliminary stormwater plans, including culverts, bridges, underground pipes, improved channels, and natural waterways where appropriate. Drainage easements shall also be shown in preliminary fashion in the plan. Hydrology calculations shall conform to the city's Design Criteria for Public Improvement Projects.
 - (iv) A plan showing proposed slope treatments, including the location of any retaining walls, for areas of the property with slopes of two to one or greater. All proposed slope management techniques shall conform to the requirements of the city's land disturbance permit process.
 - (v) Preliminary water supply and distribution plan, and a letter of approval from the local agency for the water supply.
 - (vi) A public facilities plan depicting the location and size of any park, school, or other public lands to be dedicated or otherwise set aside for public ownership and use.
 - (vii) An environmental site assessment addressing the following:
 1. Is any part of the property impacted by a defined floodplain?
 2. Are any existing or proposed utilities affected by, or affecting the drainage design?
 3. Are there any existing bodies of water downstream from areas proposed to be graded?
 4. Does the existing or proposed site topography result in surface water runoff reaching an erosive velocity?
 - (viii) A generalized site map depicting the following information:
 1. How upstream drainage will be routed through the property.
 2. The location of all proposed points of release for runoff from the development, and a narrative description of any proposed management methods.
 3. Those areas of the site which will be disturbed during site grading.
- b. Based on the drainage and runoff information identified on the generalized site map, the public works director may require the preparation and submittal of four copies of a complete drainage plan and a grading and erosion control plan in accordance with requirements of this chapter and the city's land disturbance permit process, as applicable.
- c. The public works director and other appropriate officials shall review these documents and submit them to the appropriate board and committees with technical recommendations. The planning commission shall not approve a final plat until all public works elements have been designed and are in compliance with this section as certified by the public works director.

(6) *Final plat application process.*

- a. After approval of the preliminary plat and public works elements, the applicant shall prepare and submit a final plat for review and approval together with other supplementary information and certificates.

- b. An applicant shall be required to submit an application for a final plat on forms available from the planning and development department along with the applicable fee as provided in the city fee schedule. The application shall include a certified final plat and shall be submitted at least 30 days prior to a regular meeting of the planning commission at which consideration is requested.
 - c. Upon approval, the applicant shall supply the city with at least five prints on paper for recording by the city.
- (7) *Final plat submission content.* The final plat shall be drawn at a scale of one inch per 100 feet. If more than two sheets are required, an index map showing the entire development shall be shown on each sheet, along with appropriate match lines. The final plat shall include the following information:
- a. Name of subdivision.
 - b. Location by section, township, range, county, and state, including descriptive boundaries of the subdivision based on an accurate traverse giving angular and linear dimensions of second order surveying accuracy. All calculations shall be furnished showing bearing and distances of all boundary lines and parcel lines, and the square foot area of each parcel.
 - c. Location of boundaries in accordance with the following standards: Third Order, Class I as defined in the current Classification Standards of Accuracy and Specifications for Geodetic Control Surveys, 10 CSR 30-4, Missouri Code of State Regulations. The subdivision survey shall conform to the procedures as defined in the current Minimum Standards of Property Boundary Surveys, 10 CSR 30-1, Missouri Code of State Regulations. Appropriate boundary points shall include their state plane coordinates and grid factor.
 - d. Location of parcels, streets, highways, alleys, parks, and other features with accurate dimensions in feet and decimals of feet, with the length and radii, or arcs, of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points, and points of curve, to parcel lines.
 - e. Parcels shall be numbered clearly. If blocks are to be numbered or lettered, these should be shown clearly in the center of the block.
 - f. The exact locations, widths, and names of all streets to be dedicated.
 - g. Location and width of all easements to be dedicated.
 - h. Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
 - i. Names and addresses of the developer and the surveyor, engineer, or landscape architect preparing the plat.
 - j. Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.
 - k. Statement dedicating all easements, streets, and other public property, properly signed and acknowledged by appropriate persons, surveyor's certification and other language as follows:
 - (i) Legal description. An accurate legal description of the property being subdivided, including acreage.
 - (ii) Dedication.
- The undersigned proprietors of the property described herein have the same to be subdivided in the manner shown on this plat and said property shall hereafter be known as _____.

It shall be sufficient description of the parcels on this plat to hereafter designate the same by the number appearing near the center of the parcels followed by the block number appearing near the center of the respective blocks followed by the words:

An easement or license is hereby granted to the City of Branson, Missouri, to locate, construct and maintain, and to authorize the location, construction, maintenance, or use of conduits, for all and any purpose, water, gas, and sewer mains, poles, wires, anchors and appurtenances thereto, or any or all of them over, under and along the strip of land outlined on this plat and designated "UTILITY EASEMENT" or "U.E."

An easement or license is also hereby granted to the City of Branson, Missouri, to locate, construct and maintain, and to authorize the location, construction, maintenance, and use of surface drainageways and installations, and underground drainage conduits and appurtenances for drainage purposes on, under and along the strips of land outlined on this plat designed "DRAINAGE EASEMENT" or "D.E."

Streets shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

STATE OF MISSOURI

COUNTY OF TANEY

On this _____ day of _____,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State and day and year last written above.

Notary Public

My Commission Expires:

Approved by the Planning and Zoning Commission of the City of Branson, Missouri, this:
_____ day of _____ 20_____.

Chairperson

Approved by the Board of Aldermen of the City of Branson, Missouri, this: _____ day
of _____ 20_____.

Ordinance No. _____

Mayor

City Clerk

Public Works Director

This plat prepared by:

Surveyor: _____

(iii) Any signature shall have the corresponding name typed, printed, or stamped beneath the signature.

- l. Supplementary documents and information to accompany the final plat:
 - (i) Two, three-line profile prints of streets to be dedicated, indicating the grades thereon.
 - (ii) Tax certificates from both the city and county shall be submitted, stating that all taxes and encumbrances have been satisfied of record on the land to be dedicated.
 - (iii) Two copies of any private restrictions affecting the subdivision, or any part thereof, for future reference by the city and to be recorded.
 - (iv) Sewers (storm and sanitary). Plan and profiles of all proposed storm and sanitary sewers. Calculations for storm and sanitary sewers based on minimum design criteria shall be included. Two additional copies of the sanitary sewer plans and a check for the appropriate amount made payable to the state for the state permit application shall be furnished for submission to state agencies.
 - (v) Water system. Plans for water extensions and distribution lines, and letter of approval from the local agency for the water supply.
 - (vi) Plans for street lighting system.
 - (vii) All construction plans shall be on standard 24-inch by 36-inch plan profile sheets.
 - (viii) Subordination of any existing easements where in conflict with proposed right-of-way.
- (8) *Final plat review and approval.*
 - a. The planning and development director, public works director, and utilities director shall review and submit the final plats to the planning commission for its review and report. In recommending approval or disapproval of the final plat, the planning commission shall consider the following review criteria:
 - (i) The proposed final plat complies with the conditions of approval of the preliminary plat;
 - (ii) The layout and design of the proposed final plat is in substantial compliance with the approved preliminary plat, including but not limited to number of lots or parcels, street and block layout, and access;
 - (iii) The improvement plans for any required on-site or off-site public or private improvements have been reviewed and approved by the city for construction; and
 - (iv) The applicant has constructed all required public or private improvements, and they have been inspected and accepted by the city, or that the applicant has filed with the city sufficient financial security for those improvements.
 - b. The applicant shall also submit the final plat to those utility companies or agencies involved for their review of the pattern and dimensions of the proposed easements. Utility companies or agencies shall include the local electric company, the local telephone company, the local cable television company, and the local water provider.
 - c. After receiving the recommendation of the planning commission, the final plat shall be submitted to the board for its action.
 - (i) The board may specify changes or modifications therein which it deems necessary, and may make its approval subject to such alterations.
 - (ii) In case of planning commission disapproval, the applicant may appeal, present the final plat to the board, and seek approval.
 - (iii) The action of the board shall be by ordinance, which ordinance shall include approval of the final plat for recording.

- (iv) Upon approval by the board by ordinances duly passed, such approval shall be endorsed on five copies on paper, under the hand of the city clerk and the seal of the city.
- d. The planning and development department shall record the approved plat within 30 days, provided all permits for public works improvements have been issued and the improvements either completed or the security received. The applicant shall pay all fees associated with the recording of the final plat.
- (9) *Final plat required improvements and guarantees.*
- a. Prior to the final reading of the ordinance approving the final plat, the applicant shall be issued all public works permits and provide satisfactory security in the form of a bond, cash escrow, or other securities guaranteeing the installation of the improvements in conformance with this chapter. The applicant may construct any, or all of the permitted public works elements without submission of the security. However, the city will not accept any of the infrastructure until the final plat is recorded and the maintenance guarantee is provided as required in this chapter. No building permit shall be issued by the city for any parcel within the city limits until the required minimum improvements for streets and water are completed in accordance with this chapter.
 - b. Any escrow amount held by the city to secure actual construction and installation of 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. 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 the ordinances of the city, 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 are duly posted with the federal postal service or other agreed-upon delivery service, or when the escrow funds are hand-delivered to an authorized person or place as specified by the owner or developer.
 - c. No surety bond shall be accepted unless it is enforceable, or payable to the city or its agent, in a sum at least equal to the cost of constructing the improvements as estimated by the public works director and in form with surety and conditions approved by the city attorney.
- (10) *Inspection and acceptance of improvements.*
- a. All of the standard improvements required by these regulations shall be subject to inspection and approval of the public works director, who shall be notified at least 24 hours prior to the start of construction.
 - b. The city shall not have any responsibility with respect to any street or other improvements, regardless of the possible use of the improvements by the public, unless the street or other improvements have been accepted by the city.
 - c. Prior to requesting final acceptance of streets and sanitary and storm sewers, the applicant shall furnish as-built drawings in reproducible form. If possible, the as-built drawings should also be furnished electronically.
 - d. The city shall, within 30 days after the public improvements have been offered for dedication to the city, accept the improvements, provided the improvements have been

constructed in accordance with the requirements and conditions of this article and the specifications of the city. Applicants shall furnish proof that all improvements are free of liens and debts.

- (11) *Maintenance bond.* An acceptable maintenance bond shall be provided in the amount of ten percent of the contract price of the improvements against defects in workmanship and materials for a period of two years from the date of acceptance of such improvements. The bond shall be filed with the public works director prior to the issuance of public works permits by the city.

(e) *Condominium split.*

(1) *Application requirements.*

- a. The applicant shall be required to submit an application for a condominium split on forms available from the planning and development department along with the applicable fee as provided in the city fee schedule.
- b. The application shall include a certified plat for review.
 - (i) The certified plat shall be prepared by a state-registered surveyor in conformance with this article.
 - (ii) The plats shall:
 1. Show all existing buildings, parking lots, parking spaces, driveways, paved areas, and other features pertinent to proper division; and
 2. Shall set forth all angular and linear data along the exterior boundaries of the parcel; the linear measurements and location, with reference to the exterior boundaries, of the buildings located or to be located on the parcel; and the elevations or proposed elevations at, above, or below official datum of the finished or unfinished interior surfaces of the floors and ceilings, and the linear measurements of the actual or proposed finished or unfinished interior surfaces of the perimeter walls, and lateral extensions thereof, of every unit or proposed unit in the buildings, and the locations or proposed locations of such wall surfaces with respect to the exterior boundaries of the parcel projected vertically upward. Every such unit shall be identified on the plat by a distinguishing number or other symbol.

(2) *Review procedure.*

- a. Condominium split applications will be reviewed by the planning and development director and the public works director to determine if they meet the requirements for the condominium split procedure.
- b. If the application is determined to be eligible for the abbreviated process, the planning and development director will notify the applicant in writing of the approval, conditional approval, or rejection of the division within 21 days of receipt of a complete application.
- c. The determination of the planning and development director shall be the final action on condominium split procedures. If the condominium split is denied, the applicant may appeal to the planning commission and board in accordance with the procedures in this chapter.

(3) *Approval of plat and recording.*

- a. If approval of the condominium split is granted, the applicant shall supply the city with at least five prints on paper. These documents shall show all applicable information required under this chapter and the approval statements shall read:

The undersigned proprietors of the property described herein have the same to be subdivided in the manner shown on this plat and said property shall hereafter be known as _____.

It shall be sufficient description of the parcels on this plat to hereafter designate the same by the number appearing near the center of the parcels followed by the block number appearing near the center of the respective blocks followed by the words: _____.

In testimony whereof, the undersigned proprietors have hereunto set their hands this _____ day of _____ 20____.

STATE OF MISSOURI

COUNTY OF TANEY

On this _____ day of _____,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State and day and year last written above.

Notary Public

My Commission Expires:

Approved by the Planning and Development Director and the Public Works Director, under the authority of the Mayor and Board of Aldermen of Branson, Missouri this _____ day of _____ 20____.

Planning and Development Director

Public Works Director

- b. Any signature shall have the corresponding name typed, printed, or stamped beneath the signature.
- c. When conditional approval of the condominium split is granted, the conditions imposed shall be complied with prior to the documents being signed and recorded.

(f) *Conservation design subdivision.*

- (1) *Pre-application meeting.* Prior to submittal of a conservation design subdivision application, the applicant shall meet with the planning and development director for a pre-application meeting to discuss the preparation of a site analysis map and to schedule a site visit, as described herein.
- (2) *Preliminary site analysis map.* After the pre-application meeting, but prior to submittal of the conservation design subdivision application, the applicant shall prepare and submit a preliminary site analysis map that provides information about existing site conditions and context, and that comprehensively analyzes existing conditions both on the proposed subdivi-

sion property and on all lands within 1,500 feet of the subject property's boundaries. The site analysis map scale shall be in accordance with standards for a preliminary plat and the map shall contain the information listed in the subsections below.

- a. Natural and constructed features. The site analysis map shall show the relationship of the property to natural and constructed features located on the property and within 1,500 feet of its boundaries. The features to be shown include:
 - (i) Public roads and trails;
 - (ii) Utility easements and rights-of-way, as filed with the county;
 - (iii) Constructed features, including but not limited to driveways, farm roads, buildings, foundations, walls and fences, wells, drainage fields, ditches, dumps, and utilities;
 - (iv) Topography (from United States Geological Survey (USGS) maps) as required for preliminary plats, including steep slopes (30 percent or greater);
 - (v) Streams, rivers, waterbodies, and wetlands, and required setbacks as defined in this chapter;
 - (vi) Base flood areas;
 - (vii) Wildlife habitat protection areas identified by the Missouri Department of Conservation and the United States Fish and Wildlife Service;
 - (viii) Soils as mapped by the United States Department of Agriculture (USDA) Natural Resources Conservation Service;
 - (ix) Public lands, both state and federal;
 - (x) Lands protected under conservation easements; and
 - (xi) Historically and culturally significant sites or structures.
 - b. Proposed conservation area. The site analysis map shall depict the proposed or potential conservation area(s), including total calculated conservation area and its percentage of the total subdivision.
 - c. Potential buildable areas. The site analysis map shall delineate the potential buildable areas, including total calculated conservation area and its percentage of the total subdivision.
- (3) *Site visit.* After the applicant creates a preliminary site analysis map, and prior to submission of the concept plan and complete application, the applicant shall schedule a site visit to the property with the planning and development director. The planning and development director may invite other relevant local, state, or federal entities (e.g., public works director, Ozark Regional Land Trust, Missouri Department of Conservation, Taney County Soil and Water Conservation District, United States Fish and Wildlife Service, or Missouri Department of Natural Resources) to attend the site visit. The purpose of the site visit is to:
- a. Familiarize staff with the property's existing conditions and special features,
 - b. Identify potential site development issues, and
 - c. Provide an opportunity to discuss design concepts, including the general location and layout, and management of the conservation area(s), the potential locations for proposed buildable areas, parcels, and building envelopes within parcels (as applicable), and the potential locations for utilities, roads, and other development features.

Comments made by staff during the site visit are not binding in any way and shall be interpreted as suggestions only. No official decisions shall be made during the site visit.

- (4) *Concept plan.* After the pre-application meeting and site visit, the applicant shall submit the site analysis map, concept plan, and proposed conservation area(s) management plan to the planning and development director for review and comment.
 - (5) *Complete application.* Following receipt of the written comments on the concept plan from the planning and development director, the applicant shall submit a complete subdivision application for a conservation design subdivision. The subdivision review and approval process shall follow the requirements of a major subdivision approval.
- (Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-9. Minor modification.

- (a) *Purpose.* Applications for minor modification may be submitted along with an application for subdivision approval for the purpose of making a minor amendment to a development standard applicable to the proposed project. Minor modifications may also be made to approved preliminary or final plats that conform with the requirements of this section. A minor modification allows a change of up to ten percent to the applicable standard.
- (b) *Standards subject to minor modification.*
 - (1) Up to four minor modifications may be provided for a pending subdivision application. No more than two minor modifications may be permitted to correct measurement errors on an approved preliminary or final plat.
 - (2) The following standards may be subject to minor modifications of up to a maximum of ten percent from the general development and zoning district standards, provided that the applicable approval criteria in this section are met:
 - a. Minimum lot area requirements;
 - b. Setback requirements; or
 - c. Quantitative development standards (e.g., percentage of site landscaping, number of parking spaces, etc.).
- (c) *Measurement.* The modification is calculated by applying the ten percent modification to the required development standard or measurement, rounded to the nearest whole number. For example, a required ten-foot side yard setback may be modified by ten percent, or one foot, allowing a nine-foot setback.
- (d) *Approval criteria.* Minor modifications may be approved only upon a finding that all of the following criteria have been met:
 - (1) The requested modification is consistent with the stated purposes of these regulations;
 - (2) The modification will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety;
 - (3) Any adverse impacts resulting from the modification will be mitigated to the maximum practical extent; and
 - (4) The modification is of a technical nature (i.e., relief from a dimensional or design standard), and is either:
 - a. Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;

- b. Supporting an objective or goal from the purpose and intent statements of the zoning district where located; or
- c. Proposed to protect sensitive natural resources or better integrate development with the surrounding environment.

(e) *Review process.* Final approval of any proposed minor modification shall be the responsibility of the planning and development director.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-10. Land disturbance.

(a) Purpose.

- (1) The purpose of this article is to control soil erosion on land that is undergoing development for non-agricultural uses, and to preserve the natural terrain and waterways of land within the city. Soil erosion may result in the loss of valuable topsoil, the degradation of water quality, and obstruct stormwater flows in storm sewers, road ditches, and natural watercourses.
- (2) The provisions in this article are intended to promote land preservation and the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil, or results in the movement of earth.

(b) Applicability.

- (1) A land disturbance permit is required for any land disturbance activities affecting a total of 3,000 square feet or more of any parcel.
- (2) The following activities are exempt from requiring a land disturbance permit, provided that no change in drainage patterns or sedimentation onto adjacent properties will occur:
 - a. Land disturbance activities within public rights-of-way;
 - b. Land disturbance activities for, or by any public utility for the installation, inspection, repair, or replacement of any of its facilities;
 - c. Land disturbance activities in accordance with plans submitted with other permits, reclamation plans, or permitted sanitary landfills;
 - d. Land disturbance activities of farming on land zoned agricultural, provided approval from the Taney County Soil and Water Conservation District;
 - e. Gardening and similar activities on property within residential districts; or
 - f. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(c) Permit application process.

- (1) Prior to filing a land disturbance permit application for review, an applicant may submit the application for pre-application review. As far as may be practical on the basis of the application, the planning and development director will, in writing, advise the applicant as promptly as possible of the extent to which the proposed plan conforms to the design standards in this section, and will discuss possible modifications that may be necessary to secure conformance.
- (2) An applicant shall be required to submit an application for a land disturbance permit on forms available from the planning and development department along with the applicable fee as provided in the city fee schedule.

- (3) The applicant may request a waiver of any application requirement to the planning and development director. The planning and development director may, in writing, grant the request for a waiver upon determining that the item to be waived is not applicable to the project under review, and that the remaining information submitted is sufficient to show that the work will comply with the purposes of this article.
- (4) The individual who prepares the application submissions shall have a thorough and demonstrable knowledge of erosion, sediment, and stormwater control practices. The plan shall include BMP's in accordance with the city's Design Criteria for Public Improvement Projects.

(d) *Application submission content.*

(1) *General information.*

- a. Name, address, and contact information of property owner or responsible party for the project.
- b. Property address and location map of property to be disturbed.
- c. Property boundaries and total acreage of property.
- d. Names of adjacent property owners.
- e. A site map showing the outlines of the total project area and land disturbance areas, and their acreage.
- f. Name and address of engineering firm or engineer.
- g. Existing land use and zoning.
- h. United States Geological Survey (USGS) benchmark source and site benchmark on USGS datum.
- i. Existing surface contours at intervals no greater than two feet for the land disturbance activity area, and to at least 25 feet beyond the area.
- j. Proposed surface contours at intervals no greater than two feet for the land disturbance activity area, and to at least 25 feet beyond the area.
- k. Federal Emergency Management Agency (FEMA) flood panel number and delineation of 100-year floodplain and floodway.
- l. Location of wooded areas and any trees six inches and greater in diameter as measured 4½ feet above grade, watercourses, wetlands, surface water bodies, and soil borings.
- m. Field surveyed natural watercourses showing top and toe of banks.
- n. Location of all underground and above ground utilities, including pipelines operated at a service pressure in excess of 200 psig.
- o. An estimated count and approximate location of all existing trees, six inches diameter or larger, measured at 4½ feet above grade, identification of all trees within that group that are identified for removal, and the required characteristics of all trees for tree preservation credit. A tree count is not required for areas of the site that will not be disturbed during construction.
- p. Delineation of the tree preservation plan per this chapter.
- q. Delineation of the vegetative buffer plan per this chapter.
- r. Proposed access to the site either from public right-of-way under a permit issued by the governing agency, or through private property under an easement or license.

- s. All proposed permanent improvements to be constructed as part of the land disturbance activity.
 - t. City standard land disturbance activity notes, which includes a note stating that "The contractor shall request an inspection two days in advance of construction startup".
 - u. City standard construction details.
 - v. Signature, seal, and date of a licensed professional engineer.
 - w. Signature, seal, and date of a registered land surveyor and his statement identifying sources of topographical information.
 - x. A signed statement by the permittee assuming full responsibility for the performance of the land disturbance activities, and that all state, county, city, and private property or roads will be adequately protected.
 - y. Other items as required in the city's Design Criteria for Public Improvement Projects, or as required by the public works director.
- (2) *Specific design information.*
- a. A geotechnical report identifying the United States Department of Agriculture (USDA) soil textures throughout the site, slope stabilization analysis for cut and fill slopes, and other pertinent data related to erosion or sediment concerns during land disturbance activities as required by the planning and development director.
 - b. The sequence of all land disturbance activities shall be shown on the construction plans, including those listed below:
 - (i) Stripping and clearing;
 - (ii) After changes in drainage courses;
 - (iii) Construction of underground infrastructure;
 - (iv) Construction of structures, such as buildings, pavement, and retaining walls;
 - (v) Final grading; and
 - (vi) Landscaping.
 - c. The planning and development director may require separate construction plans to be submitted for separate phases of the project.
 - d. Stabilization of any stream bank erosion problems existing in natural watercourses that are to be left undisturbed, or may jeopardize private lots, public utilities, or detention facilities.
 - e. Details of any temporary drainage system proposed to be installed in connection with any, and all phases of land disturbance activity.
 - f. Details of proposed water impoundment structures, embankments, sediment, or debris basins, grass or lined waterways, diversions with the details and locations of proposed stable outlets, and the location of any downstream impoundments which could be affected by the proposed land disturbance activities.
 - g. Location of construction traffic access and wash-off pad.
 - h. Description of erosion and sediment controls that will be installed prior to, and during, any land disturbance activity to control pollutants in stormwater discharges, along with a drainage area map with appropriate pre-development, appropriate interim, and post runoff calculations for each proposed stormwater conveyance system, and erosion and sediment control (Calculations shall conform to the city design standards).

- i. Drawing depicting the runoff travel paths, which are the route taken by a drop of effective rainfall falling at the most hydraulically remote point, to the outlet of a drainage basin, to determine the time of concentration used in this article. Provide calculations for time of concentration and composite curve number (CN) for pre-developed watersheds.
- j. Description and location of permanent erosion and sediment controls after land disturbance activities have ended.
- k. Calculations required for the performance and design standards to reduce the amount of sediment and other pollutants in stormwater discharges associated with the land disturbance activities as required by these regulations. The applicant's engineer shall select and design erosion and sediment controls adequate to meet those requirements.

(e) *Supplemental required submission content.* The following items, if identified by the planning and development director as applicable, must additionally be submitted with the application for a land disturbance permit:

- (1) Alternative material and vendor specifications for erosion and sediment control devices.
- (2) Other city permits, such as floodplain development permit, special use permit, demolition permit, or building permit for retaining walls.
- (3) Permits from other governmental agencies, such as the United States Army Corps of Engineers or Missouri Department of Natural Resources.
- (4) Performance guarantee pursuant to this article.
- (5) Executed easements needed for land disturbance activities or access.

(f) *Performance guarantee.* An applicant shall provide the city with a performance guarantee to insure or guarantee the stabilization of the site upon completion or stoppage of the land disturbance activity.

- (1) *Form of guarantee.*
 - a. If the performance guarantee is a lender's or escrow agreement, that agreement shall:
 - (i) Be prepared on forms approved by the city and signed by the planning and development director;
 - (ii) Ensure or guarantee the installation of sediment and erosion controls, and the final stabilization of ground cover, based on amounts established in the design calculations and approved by the public works director; and
 - (iii) Be held in a special account by the escrow holder or lender, and the funds shall be subject to the audit of the city.
 - b. If the performance guarantee is a standby letter of credit, that document may be prepared on forms approved by the financial institution on which it is drawn, but must provide for automatic extensions for additional one-year terms unless, at 45 days prior to the letter's current expiration date, the financial institution issuing the letter provides written notice of non-renewal to the city.
- (2) *Amount.* Applicants shall work with the planning and development director to agree on the amount of guarantee required using one of the two following calculation methods:
 - a. *Estimated cost of improvements.*
 - (i) The amount of the guarantee may be determined from the estimated land disturbance acreage, rounded up to the nearest tenth of an acre, times the cost per acre according to the following schedule:

Land Disturbance Acreage	Cost per Acre
< 5.0	\$3,000.00
5.0 to 20.0	\$2,500.00
> 20.0	\$2,000.00

- (ii) Additional amounts shall be required equal to the costs of other proposed construction items referenced in the submission content sections of this section.
 - b. *Line-item cost of improvements.* Alternatively, the guarantee amount may be calculated based on a line-item cost estimate for all erosion and sediment controls, and other proposed construction items included in the application for a land disturbance permit.
- (3) *Release.*
- a. The planning and development director may authorize release up to 50 percent of any performance guarantee funds upon confirming by inspection that all erosion and sediment controls are in place and functioning properly, including establishment of vegetation and other proposed construction items referenced in the submission content sections of this section.
 - b. The planning and development director may authorize release up to 90 percent of any performance guarantee funds subject to an escrow or lender's agreement upon confirming by inspection that vegetation has been established and ongoing maintenance has been provided for all installed erosion and sediment controls. However, the amount retained shall not be reduced to less than the cost of maintaining the erosion and sediment controls.
 - c. The planning and development director shall authorize release of all remaining performance guarantee funds only when all land disturbance work has been completed and all soil subject to the land disturbance permit is stabilized, including permanent vegetation.
 - d. In the event of a violation or deficiency that is not resolved in a reasonable time, the performance guarantee proceeds may be used by the city to install pollution prevention controls to stabilize the site subject to the land disturbance permit. Prior to resumption of work, the permittee must post a new performance guarantee in the amount determined pursuant to this article.

(g) *Issuance of permit.* A land disturbance permit shall be issued by the city only if:

- (1) The application for the permit is complete and includes all submission requirements of this section, unless waived pursuant to this section;
- (2) The design submitted with the application is consistent with the design standards established or authorized by this section; and
- (3) A performance guarantee has been accepted by the city.

(h) *Transfer of permit.*

- (1) Unless a permittee transfers a land disturbance permit as provided herein, that permittee remains bound by the terms of that permit even after transfer of ownership of land subject to it.
- (2) A land disturbance permit may be transferred only if all of the following conditions are met:
 - a. The permittee must file a request for transfer with the planning and development director cosigned by the transferee, which must include:
 - (i) A legal description of the area to be transferred; and

- (ii) A map or plan showing the area to be transferred.
 - b. The planning and development director must determine from the request and supporting documentation that the area to be transferred includes substantially all of any drainage basin or basins, wholly or partly within the area subject to the originally issued permit, and give permittee and transferee written notice of that determination.
 - c. The transferee must submit to the planning and development director:
 - (i) A performance guarantee as provided in this section; and
 - (ii) A copy of the Missouri Department of Natural Resources land disturbance permit ownership transfer documentation per 10 CSR 20-6.200 for the same transfer. No city permit may be transferred without this document.
- (i) *Requirements before construction.* It is the responsibility of the permittee to ensure that the following items are performed prior to construction startup, unless deemed non-applicable to the project by the planning and development director:
- (1) Schedule a pre-construction conference with the planning and development director prior to the start of the construction phase of land disturbance activity, including installation of the temporary construction entrance. The permittee will be responsible for notifying all contractors and other entities, including utility crews that will perform work at the site, to be in attendance. Additional meetings may be required by the city.
 - (2) Supply in writing to the planning and development director, the name and contact information of all contractors and subcontractors, and identify the permittee's designated agent supervising and directing all land disturbance activities on-site.
 - (3) Stake and post signs of tree preservation areas and vegetated buffer areas per this Code.
 - (4) Identify in writing, each erosion and sediment control product that is not a specification authorized by this section, and submit manufacturer specifications and installation techniques for approval by the planning and development director for performance equivalency with city specifications.
 - (5) Identify proposed best management practices to control general site pollutants, such as construction wastes, site litter, construction debris, dust, and sanitary wastes.
 - (6) Identify toxic or hazardous substances, petroleum products, pesticides, herbicides, and other pollutants that will be used on site. Identify the pollution control method for each substance, and submit an emergency management plan for responding to any loss of toxic materials due to a containment failure. This plan must include documentation of actions and mandatory reporting to the fire department and the Taney County Health Department.
 - (7) Provide a location map depicting any proposed borrow or fill sites in the city, and the proposed truck haul routes through the city.
 - (8) Provide an erosion and sediment control installation sequencing schedule for approval by the planning and development director. The schedule should be a graph or tabulation of each erosion and sediment control installation consistent with the sequence of all land disturbance activities including those listed below, and all installations of erosion and sediment controls listed below, shall be shown on construction plans:
 - a. Stripping and clearing;
 - b. After changes in drainage courses;
 - c. Construction of underground infrastructure;
 - d. Construction of structures, such as buildings, pavement, retaining walls;

- e. Final grading; and
- f. Landscaping.

(j) *Plan modifications during construction.*

(1) *Field modifications.* The permittee shall modify already approved plans or descriptions of pollution prevention methods in any of the following circumstances:

- a. Inspections by the planning and development director, Missouri Department of Natural Resources, or United States Environmental Protection Agency (USEPA) which indicate deficiencies;
 - b. Inspections by the permittee which indicate deficiencies;
 - c. Either the permittee or the planning and development director determines that the current installations are ineffective in significantly minimizing or controlling erosion of land or sedimentation in streams or lakes;
 - d. Either the planning and development director or the Missouri Department of Natural Resources determines that total settleable solids from a stormwater outfall exceeds 2½ milliliters per liter per hour (ml/L/hr), or one-half ml/L/hr when the land disturbance activity is within a valuable water resource area as determined by the Missouri Department of Natural Resources;
 - e. Either the planning and development director or the Missouri Department of Natural Resources determines that violations of Water Quality Standards 10 CSR 20-7.031(3) may occur or have occurred; or
 - f. Either the planning and development director or the Missouri Department of Natural Resources determines that the pollution prevention methods submitted to the planning and development director as required by plan submittal requirements within this section are ineffective in preventing pollution of waterways from construction wastes, chemicals, fueling facilities, concrete truck washouts, toxic or hazardous materials, site litter, or other substances or wastes likely to have an adverse impact on water quality.
- (2) *Submittal of amended plans.* The permittee shall submit for the planning and development director's approval, amended plans and descriptions of pollution prevention methods in any of the following circumstances:
- a. The permittee seeks to modify the originally approved plans for the design, operation, or maintenance of erosion and sediment controls;
 - b. The permittee modifies the design of the project for which the permittee submitted the originally approved plans, so as to significantly affect the quality of stormwater discharges; or
 - c. The planning and development director determines that the temporary facilities or erosion and sediment controls installed according to approved plans fail to meet performance standards imposed by these regulations, and those failures require amended plans and supporting documentation or calculations.

(k) *Inspections and reports.*

(1) *City inspections.*

- a. The permittee consents to the city inspecting the permitted site and all work in progress. If necessary, additional inspection fees above the base inspection fee may be applied as provided in the city fee schedule.

- b. The planning and development director shall inspect the property periodically for compliance with these regulations, after a substantial rain event, and upon receipt of a citizen complaint concerning erosion or sediment control issues.
 - c. The planning and development director shall make inspections and either approve any portion of the work completed, or notify the permittee in writing when the work fails to comply with the conditions of the land disturbance permit.
 - d. The permittee shall notify the planning and development director at least two working days before the following activities to obtain timely inspection:
 - (i) Establishment of tree preservation and stream buffer boundaries;
 - (ii) Start of land disturbance or construction;
 - (iii) Installation of erosion and sediment controls;
 - (iv) Completion of site clearing;
 - (v) Completion of rough grading;
 - (vi) Completion or suspension of final land disturbance activity;
 - (vii) Close of the construction season; and
 - (viii) Completion of final landscaping.
- (2) *Permittee inspections and reporting.*
- a. The permittee shall make regular inspections of the permitted site, observing all erosion and sediment control and other pollutant control measures, outfalls, and off-site receiving waters. The inspections must be conducted by a person knowledgeable in the principles and practice of erosion and sediment controls, and who possess the skills to assess conditions at the construction site that could impact stormwater quality and the effectiveness of the erosion and sediment controls used.
 - b. Inspections must be made by the permittee at least once per week, and no later than two days after a substantial rain event. A reduction in the weekly inspections may be waived by the planning and development director for the following reasons:
 - (i) The entire site is temporarily stabilized;
 - (ii) Runoff is unlikely due to winter conditions, such as snow cover or frozen ground; or
 - (iii) Construction is during arid periods when no erosion or sediment has occurred.
 - c. All inspections by the permittee shall be documented in written form on reports with copies submitted to the planning and development director at the time interval specified in the permit. A report of each inspection shall be kept on site by the permittee, if possible. Otherwise, the inspection form will be retained by the permittee at its closest business office located within the city. Falsification of reports is in violation of the permit and cause of immediate suspension or revocation of the permit. The inspection reports are to include the following minimum information:
 - (i) Inspector's name and signature;
 - (ii) Date of inspection;
 - (iii) Observations relative to the effectiveness and deficiencies of the erosion and sediment controls and other pollution prevention controls; and
 - (iv) Actions taken or necessary to correct deficiencies, including the log of field changes to the approved plan during the period covered by the report as follows:
 1. A listing of areas where land disturbance activities have permanently or temporarily stopped; and

2. Stormwater sampling information and analytical results, when applicable.
- d. The permittee shall be responsible for correcting any deficiencies identified within seven calendar days of the date of inspection required by this section to identify these deficiencies.
- e. The planning and development director shall make additional inspections as necessary to ensure the validity of the reports filed and, where applicable, to confirm the correction of reported deficiencies.

(1) *Closing of permit.* The planning and development director shall close land disturbance permits upon permittee's stabilization of all soil at the site subject to the permit, and release the entire performance guarantee as authorized by this section.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-11. Tree preservation.

(a) Unauthorized removal of trees.

- (1) No trees six inches and greater in diameter as measured 4½ feet above grade shall be removed from private property prior to issuance of a land disturbance or building permit. It shall be considered an unauthorized removal if a tree is removed without first obtaining a permit or is intentionally killed by means of grading, grubbing, placement or fill, or other unacceptable construction methods.
- (2) Subject to approval by the planning and development director, trees that are standing dead or severely damaged by termites, lightning, or other acts of God, and are removed as a safety precaution, are exempt from the replacement and removal requirements of this section unless the site is subject to an approved landscape plan.
- (3) Existing trees six inches and greater in diameter as measured 4½ feet above grade that are removed from the site must be replaced with one tree of like kind, of minimum size as outlined by these regulations. Tree replacement shall be made within 180 days of the removal. Any tree, or tree areas identified to be retained on the landscape plan that do not remain alive for a period of at least 36 months after the development of the site, or stage ceases, shall be considered "disturbed", in violation of these regulations, and shall be restored.

(b) Tree preservation.

- (1) When a demolition, land disturbance, or building permit is requested for a property, the applicant shall use the landscape plan process to identify how areas of natural vegetation, specified trees, and natural forest areas will be protected during the development and construction of the project.
- (2) An inventory detailing the location and species of all trees six inches and greater in diameter as measured 4½ feet above grade must be shown on the landscape plan. An applicant may substitute 40 canopy trees per acre in lieu of an inventory.
- (3) All existing, healthy, and non-invasive trees of six inches and greater in diameter as measured 4½ feet above grade must be preserved, transplanted, or replaced on the site unless otherwise approved by the planning and development director. A tree credit shall be issued for any unrequired tree planted on the site. A list of available tree credits shall be maintained by the planning and development director. If site constraints prevent tree replacement on the site, the applicant may:

- a. Pay \$50.00 per tree to the city for all activities related to the purchase, establishment, and maintenance of trees and other vegetation on public property; or
- b. Receive credits from other properties that planted additional trees.

- (4) Exemption for single-family homes. When a building permit has been issued for a single-family home, the parcel on which the construction is approved is exempt from the tree preservation and replacement requirements of this section.
- (c) *Tree protection.*
- (1) *General requirements.* Tree protection during construction shall conform to the requirements of this section and the requirements relevant to construction in the American National Standards Institute (ANSI) publication A300 standards, a copy of which is on file in the office of the city clerk.
- (2) *Protective fencing required.* Tree protection requirements shall apply to existing trees that are to receive credit for preservation and existing trees included in a preserved natural forest area. Such trees shall be surrounded by a temporary fence that shall be constructed around the drip line of each tree, or group of trees to be preserved, prior to any grading or construction on the property.
- a. The fencing shall be rigidly supported and maintained during all construction periods at a minimum height of four feet above grade.
- b. All trees required to be fenced shall be clearly marked in a method approved by the planning and development director to notify inspectors the subject tree, or trees, are to be fenced at all times during construction. Protected areas shall also display a sign identifying them as tree preservation areas.
- c. Fencing may only be removed with the planning and development director's written permission, or upon approval of the final landscaping inspection.
- (3) *Owner's responsibility.* The owner or developer shall be responsible for the erection of any and all fences necessary to protect any existing, or installed trees from damage both during, and after construction.
- (4) *Shown on-site or landscaping plan.* The tree protection fencing shall be clearly shown on the site plan or landscape plan.
- (5) *Inspection prior to land disturbance.* All tree protection measures shall be inspected and approved by the planning and development director prior to start of any land disturbing activities.
- (6) *Prohibited activities.* The following activities are restricted or prohibited within the area contained by the tree fence:
- a. Storage is prohibited within the fenced areas, including storage of heavy equipment, building materials, or soil.
- b. Installation of underground utilities should be avoided within the area enclosed by the temporary fence. If installation of underground utilities is necessary, tunneling shall be used under the entire tree protection area. Tunneling must occur below the main lateral level of roots, or at least two feet below the surface, whichever is greater. Tunneling shall be done from both directions. Soil shall be backfilled in the tunnels to the same compactness as before removal.
- c. Road and grade cuts (for basements and foundations) shall be outside the area enclosed by the temporary fence.
- d. No grading outside of the tree protection area shall be done that impounds water during wet periods or increases the drainage rate so that water tables are lowered.

(d) *Time limit for commencing construction after clearing land.* Where land is cleared through issuance of a permit issued by the city, and construction does not begin within one year from the date of the permit issuance, the owner shall be required to replant the cleared property to its original, natural state based on tree counts and other information originally submitted to the city. A six-month extension of this limit may be issued at the discretion of the planning and development director.
(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2019-0130, § 2, 9-24-2019)

Sec. 94-12. Site plan review.

(a) *Purpose.* The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of this chapter. It is designed to encourage quality development reflective of the goals, strategies, and actions of the Community Plan 2030.

(b) *Applicability.*

- (1) Subsection (c) below, identifies the types of development and design activities that require site plan approval. When site plan review is required, structures and uses may be established, and building permits may be issued only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this section.
- (2) Preliminary planned development ("PD") review and approval serves as site plan review for the purposes of this section.

(c) *Site plan review required.* The following applications and projects are subject to site plan approval:

- (1) All new uses and structures that are not part of a preliminary PD application or preliminary subdivision plat;
- (2) All requests for temporary uses and structures;
- (3) Any proposed redevelopment that meets or exceeds 20 percent increase in gross square footage, or 50 percent increase in assessed valuation, with either measurement calculated over a five-year period;
- (4) Relocation of development pads, buildings, or dwelling units for some practical reasons such as topography, road alignment or easements provided that the modification does not significantly alter the site design in terms of parking layouts, vehicular circulation, landscape design, and other similar components of the development plans;
- (5) An increase or decrease in a proposed setback, provided Code requirements are still met;
- (6) A modification to a recreation area or open space design, but not elimination or a significant reduction;
- (7) A change in the parking lot layout or vehicular circulation;
- (8) A change in the landscape design or a change of more than 20 percent of plant types;
- (9) Any change that may affect an adjoining residential neighborhood;
- (10) Any request that would significantly alter the design of the site or building(s); or
- (11) A request to change or delete a condition of approval established by the planning commission or the board.

(d) *Procedure for site plan review.*

- (1) *Action by planning and development director.* The planning and development director shall review each site plan application and, as necessary, distribute the application to other departments. Taking into account the results of those reviews, the planning and development director shall take final action on the application and approve, approve with conditions, deny, or defer decision on the application based on the applicable approval criteria below.
- (2) *Approval criteria.* The planning and development director may approve a site plan upon a finding that the application meets all of the following criteria, as applicable:
 - a. The site plan is consistent with the Community Plan 2030;
 - b. The site plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;
 - c. The site plan complies with all applicable development and design standards set forth in this chapter;
 - d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
 - e. The development proposed in the plan and its general location is, or will be, compatible with the character of surrounding land uses and structures; and
 - f. The development can be adequately served by city services including, but not limited to, roads, water and wastewater.
- (3) *Referral to planning commission.* The planning and development director may refer any application to the planning commission that, in the planning and development director's opinion, presents issues that require planning commission attention.

(e) *Post-approval.*

- (1) *Site-specific and binding.* Approved site plan documents shall be binding upon the applicants and their successors and assigns. No permit shall be issued for any building, structure or use that is not in accord with the approved documents, or any approved modifications thereto. The construction, location, use or operation of all land and structures within the site shall conform to all conditions and limitations set forth in the documents. No structure, use, or other element of approved design review documents shall be eliminated, altered or provided in another manner unless an amended site plan is approved.
- (2) *Expiration.* Approved site plan documents shall expire one year after approval if a building permit has not been issued, or the approved use established. In the event that the documents expire due to the passage of this time period, new site plan review documents must be submitted for approval in the same manner as an original application for development review. An extension not to exceed one year may be granted by the planning and development director.
- (3) *Modifications to site plans.* The holder of an approved site plan may request a modification to the document, or the conditions of approval, by submitting amended documents to the planning and development director. The amended documents shall be filed and processed in accordance with the procedures for an initial site plan submittal.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-13. Landscape plan.

- (a) *Applicability.* All plans submitted in support of a site plan, final development plan, or building permit shall include a landscape plan, and include screening where appropriate.

(b) *Permit required.* A permit shall be required for all landscaping plans submitted for approval. The fee for such permit shall be the same as the amount for a building permit provided in the city fee schedule.

(c) *Information required.* All plans submitted for approval of a landscape plan shall have the following information included. This list may be modified by the planning and development director for residential development applications.

- (1) North point and scale.
- (2) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- (3) The location, size, and surface of materials of all structures and parking areas.
- (4) The location, size, and type of all aboveground and underground utilities, and structures within the property, and notation, where appropriate, as to any safety hazards to avoid during landscape installation.
- (5) All required sight triangles.
- (6) Complete and accurate botanical and common names of each plant material, the number and location of trees or plants to be placed, the size at planting, and areas to receive seed or sod. The size of each tree shall be specified according to the American Standard for Nursery Stock. Mature sizes of plant material shall be drawn to scale and called out on the plan by common name or appropriate key.
- (7) An estimated count and approximate location of all existing trees, six inches diameter or larger, measured at 4½ feet above grade, and identification of all trees within that group that are identified for removal and the required characteristics of all trees for tree preservation credit. A tree count is not required for areas of the site that will not be disturbed during construction and for which the applicant is not applying for natural forest or vegetation retention credit.
- (8) Location of hose connections and other water sources.
- (9) The location, size, and type of required screening methods.
- (10) Any proposed retaining walls, indicating location, size, and material to be used in the construction of the wall.
- (11) The location and estimated dimensions of any required fencing.

(d) *Procedure for landscape plan review.*

- (1) *Landscape plan submitted with other development application.* Where a landscape plan is submitted with any other development application, such as a final development plan or site plan, it shall be reviewed and approved in the same manner as the companion application.
- (2) *Landscape plan submitted with building permit application.* The planning and development director shall review the landscape plan and, as necessary, distribute the plan to other departments for review. The planning and development director shall take final action on the application and approve, approve with conditions, deny, or defer decision on the application based on the approval criteria below.
- (3) *Approval criteria.* The planning and development director may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:
 - a. The landscape plan conforms to all requirements of this chapter, and is consistent with the currently adopted comprehensive plan.

- b. The plant materials or landscape features are designed and situated in a manner that makes the project visually compatible with its surroundings to the greatest extent possible.
- c. The landscape design includes the installation of a diversity of vegetative species and sizes with preference given to locally native vegetation, and invasive species are avoided.
- d. If required, preservation of existing, locally native vegetation is incorporated into the landscape design.
- e. No plant materials or landscape features are situated in such a manner so as to inhibit vehicle sight distances or otherwise create a traffic hazard.
- f. No woody plant materials are situated within any utility easement unless shrubs or other limited height materials have been approved by the utility provider.
- g. The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area, or migrate into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.
- h. The design, selection, and layout of such landscaping is such so as to minimize maintenance requirements.

(e) *Installation and security.*

- (1) *Landscaping installed prior to issuance of occupancy permit.*
 - a. All landscaping and screening material, living and nonliving, shall be healthy and in place prior to issuance of the certificate of occupancy. If installed, irrigation systems shall be fully functional prior to the issuance of a certificate of occupancy. This requirement shall be verified by a final landscaping inspection that shall be requested by the applicant and completed by the city prior to the issuance of the certificate of occupancy.
 - b. If seasonal limitations prevent planting, and if security as described in this subsection is provided, a certificate of occupancy may be issued.
- (2) *Security required.* Security in the form of an escrow secured with cash or cashier's check, surety bond, or another appropriate security agreement equal to the cost of the landscaping shall be provided by the permittee. Upon completion of the landscaping, and with final approval by the planning and development director, the security will be returned to the permittee. Should the permittee fail to complete landscaping as required by the approved landscape plan within 180 days of the certificate of occupancy's issuance, the city shall employ available enforcement techniques to ensure the completion of the landscaping as required by the plan, including forfeiture of the security to the city for activities associated with the public community forest.

(f) *Post approval.*

- (1) *Site specific and binding.* Approved landscape plans shall be binding upon the applicants and their successors and assigns. No certificate of occupancy shall be issued for any building or structure where landscaping has not been provided in accord with the approved landscape plan, or any approved modifications thereto.
- (2) *Expiration.* Approved landscape plans shall expire one year after approval if a building permit has not been issued, or the approved use established. In the event that the landscape plan expires due to the passage of this time period, a new landscape plan must be submitted for approval in the same manner as an original application. An extension not to exceed one year may be granted by the planning and development director prior to expiration.

(3) *Modifications to landscape plans.* The holder of an approved landscape plan may request a modification to the document, or the conditions of approval, by submitting amended documents to the planning and development director. No changes shall be made to the approved landscape design unless an amended site plan is approved.

(g) *Maintenance inspection.* All landscaping may be subject to periodic inspection for compliance to approved plans.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-14. Conformance to vicinity; depreciation.

(a) All structures in the Residential, Commercial and Downtown Districts shall, for the purposes of design, architecture and building materials, conform to the area and immediate vicinity. When plans and specifications of any structure or proposed development are such as would, in the opinion and judgment of the planning and development director, cause a general depreciation in the market value of property in the immediate vicinity, the planning and development director shall refer the proposal to the planning commission for its decision.

(b) When a new structure or development is proposed in a commercial zoning district that directly abuts a residential district (LDR, MDR, HDR), the planning and development director shall provide a recommendation to the planning commission. In rendering a decision, the planning commission shall give careful consideration to the need for undisturbed natural vegetation buffering to protect the integrity of the neighboring residential zoning district.

(c) In all cases referred to the planning commission by the planning and development director, the planning commission shall have full authority to approve, deny, approve with conditions, or require any documentation deemed necessary and appropriate to provide an accurate representation of the effects the proposed structure or development may have on the neighboring properties. Prior to rendering a final decision, citizen input shall be considered through the public hearing process with legal notification to all property owners within 185 feet of the subject property.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-15. Sign permit.

(a) *Applicability.* Except as otherwise specifically provided in this chapter, the construction, installation, or repair of all signs within the city shall require issuance of a sign permit in the manner provided in this chapter.

(1) All sign changes, including alterations, repairs, and replacements require a permit. The following actions are exempt from this requirement:

- Changing or replacing sign copy without changes to the sign structure,
- Changes to text on changeable copy signs and EMC signs, and
- Change or replacement of window signs. Changed or replaced window signs must be within the size and location limitations of the applicable district.

(2) When a sign permit is requested for a parcel where an illegal or prohibited sign(s) exists, the permit shall not be issued until all such signs are removed or brought into conformance with this Code. This provision does not apply to nonconforming signs that were established prior to June 2019.

(b) *Information required.* Applications for sign permits shall include the information identified on the application form, including, at a minimum:

(1) Name and address of the sign's owner or owner's designated agent.

- (2) Name, phone number, and email address of the sign installer.
 - (3) Clear and legible drawings, drawn to scale, that illustrate:
 - a. Freestanding signs: A site plan, drawn to scale and fully dimensioned, showing building footprint(s), proposed sign location(s), property line boundaries, all other signs on the same property, and freestanding signs on all adjoining properties.
 - b. Attached signs: A detailed elevation drawing of the building's frontage, drawn to scale and fully dimensioned, showing all existing signs and indicating where the proposed sign(s) is to be installed. The elevation should also include all other features such as windows, awnings, lighting, etc.
 - c. Sign details, including detailed information on the type of sign, colors, materials, mounting, illumination (if proposed), and size of the sign.
 - d. Pictures of the structure where sign(s) are proposed.
 - (4) The advertising copy that will be placed on the sign face for the purposes of determining whether the sign is on-premises or off-premises.
- (c) *Review procedure.*
- (1) The planning and development director shall review each sign permit application and, as necessary, distribute the application to other departments. Taking into account the results of those reviews, the planning and development director shall take final action on the application and approve, approve with conditions, or deny the application.
 - (2) No permit for a new sign shall be issued to any person who has an existing permitted sign that is in violation of this article.
- (d) *Appeal of denial of permit.* If a permit application is denied by the planning and development director, the applicant may appeal the decision to the board of adjustment in the manner provided in this chapter.
- (e) *Lapse.* Permits issued under this section shall lapse if any of the following conditions are met, and a sign otherwise in compliance with this article shall be in violation upon lapse of the permit authorizing it:
- (1) The sign contemplated in the permit is not fully constructed within six months of permit issuance,
 - (2) The permitted sign is abandoned pursuant to this article,
 - (3) Use of the sign is discontinued for a period of six months.
- (Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-16. Special use permit.

(a) *Permit required.* A special use permit shall be required from the planning commission for any use listed as a special use in any zoning district, and for any use not listed in any zoning district. A special use permit review is intended to allow the establishment of uses that have a special impact, uniqueness, or effect on the neighborhood surrounding the subject site.

(b) *Review and approval criteria.* In considering a special use, the planning commission shall consider the location and design of the proposed use, configuration of improvements, potential impacts on the surrounding neighborhood, and that development in each zoning district protects the integrity of that district, and following a hearing, the commission shall record the decision in writing and shall recite the findings upon which the decision is based.

The commission may approve or modify a special use permit application in whole, or in part with conditions, only if all the following findings are made:

- (1) The proposed use is conditionally permitted within, and would not impair the integrity and character of the intended purpose of the subject zoning district, and complies with all of the applicable provisions of this chapter;
 - (2) The proposed use is consistent with the Community Plan 2030;
 - (3) There will be no significant negative effects upon environmental quality and natural resources that could not be properly mitigated and monitored;
 - (4) The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses within the general area in which the proposed use is to be located, and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity, or adverse to the public interest, health, safety, convenience or welfare of the city;
 - (5) The subject site is physically suitable for the type and density/intensity of use being proposed; and
 - (6) There are adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to the public health and safety.
- (c) *Special use permits site-specific.* All special use permits shall be approved for a specific location, and shall be transferable to a new property owner of that location for the same use barring any substantial changes or modifications of the operation. Written notification of any transfer shall be provided to the planning and development director. Any nonactive special use permit shall become null and void upon the approval of a different special use at that location. Special use permits shall not be transferred to any other location by the applicant or successor property owners.

(d) *Timeframe for validity; expiration.* All special use permits shall be valid for an unlimited period of time unless a lesser period of time shall be provided in a particular permit. Prior to the expiration of the time limit specified in a particular permit, the property owner may request the special use permit be reviewed by the planning commission, which may extend it for an unlimited period, or for a specified additional period of time.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-17. Temporary use permit.

(a) *Purpose and applicability.* The purpose of a temporary use permit is to allow uses of a temporary nature on private property to exist for a specified length of time, in a manner that will not adversely impact the general welfare of persons residing in the community. A temporary use permit is required prior to the construction or operation of any facilities or uses associated with any activity that requires authorization of a temporary use permit.

(b) *Review and approval.* Temporary use permit applications shall be processed through the site plan review process in this chapter. In addition to the process established in this chapter, the planning and development director shall also review temporary use applications for the following:

- (1) Requirements for vehicular ingress/egress and corresponding traffic safety provisions, parking requirements and facilities and hours of operation;
- (2) Regulation of public nuisance factors (e.g., light glare, noise, vibration, smoke, dust, dirt, odors, gases and heat); and

- (3) Regulation of maintenance and site restoration during, and after termination of the temporary use or expiration of the temporary use permit. A bond or other form of security acceptable to the planning and development director may be required prior to the initiation of the use to ensure cleanup after the use is finished.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-18. Certificates of occupancy and compliance.

(a) The existing use and occupancy of a building shall not be changed, or any structure hereafter erected or altered, until a building permit has been issued by the planning and development department stating the proposed use of such structure, or structure and land in combination, is consistent with the uses allowed in the zoning district.

(b) A certificate of occupancy and compliance shall be applied for coincident with the application for a building permit, and shall be issued within ten days after the erection or alteration of such building in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the city clerk, and copies shall be furnished on request to any person having proprietary or tenant interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the building permit; for all other certificates or copies of an original certificate, there shall be a charge in the amount provided in the city fee schedule.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-19. Authorization by board required.

The following shall be approved by the board by resolution:

- (a) *Public building.* The authorization of the location of any public building (whether used by any department of the city, county, state or federal government, or any publicly licensed utility) in any district within the city.
- (b) *Gravel from streams.* The authorization of extraction of gravel and sand from a flowing stream within the city.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Secs. 94-20—94-29. Reserved.

ARTICLE III. ZONE DISTRICTS

Sec. 94-30. General provisions.

This section establishes the zoning districts, and contains basic information pertaining to the districts, including statements of purpose and dimensional standards.

- (a) *Purposes, residential districts.* Residential districts are intended to:

- (1) *Generally.*
- a. Provide appropriately located areas for residential development that are consistent with the Community Plan 2030, and with the public health, safety and general welfare of the community;
 - b. Ensure adequate light, air and privacy for all dwelling units;
 - c. Protect the scale and character of existing residential neighborhoods, and the community;

- d. Discourage any use that would generate traffic or create congestion on neighborhood streets other than the normal traffic that serves the residents of the district; and
- e. Discourage any use that, because of its character or size, would create additional requirements and costs for public services that are in excess of such requirements and costs if the district were developed solely for the intended type of residential uses.

(2) *Applicable provisions of Community Plan 2030:*

- a. *LU 2.2 Pace of growth.* Direct development and growth to occur at a pace that is aligned with the city's ability to provide essential services (fire, police, sewer, water).
- b. *LU 3.1 Infill and redevelopment.* Encourage the development of vacant property, redevelopment of underutilized properties and adaptive re-use of existing buildings before annexing new land.
- c. *LU 5.1 Zoning regulations.* Create zoning regulations that are flexible but require enough specificity in development applications to achieve the desired outcome.
- d. *CC 4.5 Character.* Embrace a diversity of residential character and forms while promoting cohesiveness and livability.
- e. *CC 4.7 Public spaces.* Provide frequent, connected public spaces in a variety of forms through Branson neighborhoods.

(b) *Purposes, Mixed-Use Districts.* Mixed-Use Districts are intended to:

(1) *Generally.*

- a. Promote Higher-Density Residential development near, and within, downtown Branson;
- b. Concentrate higher-intensity commercial and office employment growth efficiently in, and around, the downtown and other centers of community activity;
- c. Encourage mixed-use redevelopment, conversion, and reuse of aging and underutilized areas, and increase the efficient use of available commercial land in the city;
- d. Create pedestrian-oriented environments that encourage pedestrian access, bicycle use and more sustainable land use patterns; and
- e. Ensure that the appearance and function of residential and nonresidential uses are of high and unique aesthetic character and quality, and are integrated with one another and the character of the area in which they are located.

(2) *Applicable provisions of Community Plan 2030:*

- a. *LU 3.1 Infill and redevelopment.* Encourage the development of vacant property, redevelopment of underutilized properties and adaptive re-use of existing buildings before annexing new land.
- b. *LU 4.1.2* Provide mixed-use zoning, via a zoning amendment or an overlay district, in the identified commercial centers to permit vertically mixed-use buildings, compact development and reduced building setbacks.
- c. *LU 7.2 Sustainable development practices.* Encourage the use of sustainable design and development practices for all new projects.
- d. *LU 5.2 Mixed-use development.* Create a regulatory framework to encourage mixed-use development of compatible uses.
- e. *H 1.2 Housing variety.* Encourage housing in a variety of forms for all demographics and socioeconomic in Branson.

- f. *H 1.3 Housing attainability.* Encourage the creation and expansion of attainable housing opportunities within the city.
 - g. *CC 4.2 Pedestrian experience.* Promote a safe, efficient, and enjoyable pedestrian experience through residential neighborhoods.
 - h. *CC 4.4 Compatibility.* Promote the compatibility of uses near residential neighborhoods.
 - i. *CC 4.5 Character.* Embrace a diversity of residential character and forms while promoting cohesiveness and livability.
 - j. *CC 4.7 Public spaces.* Provide frequent, connected public spaces in a variety of forms through Branson neighborhoods.
- (c) *Purposes, Commercial and Industrial Districts.* The Commercial and Industrial Districts are intended to:
- (1) *Generally.*
 - a. Help implement the Branson Community Plan 2030 by accommodating a full range of office, retail, commercial, service and mixed-uses as needed by Branson's residents, businesses, visitors and workers;
 - b. Encourage site planning, land use planning and architectural design that create an interesting, pedestrian-friendly environment where appropriate;
 - c. Maintain and enhance the city's economic base by providing shopping, entertainment and employment opportunities close to where people live and work;
 - d. Preserve, protect and promote employment-generating uses;
 - e. Create suitable environments for various types of commercial and industrial uses, and protect them from the adverse effects of incompatible uses;
 - f. Allow flexibility to encourage redevelopment and positive improvements to existing businesses;
 - g. Minimize potential negative impacts of intense nonresidential development on adjacent residential areas; and
 - h. Provide suitable locations for public and semi-public uses needed to complement nonresidential development.
 - (2) *Applicable provisions of Community Plan 2030:*
 - a. *LU 3.1.3* Ensure the design of infill and redevelopment projects is appropriate with surrounding and adjacent buildings in terms of intensity of use, relationship to the street and scale. This should apply to residential and all nonresidential buildings.
 - b. *LU 3.2.1* Incentivize reinvestment and building rehabilitation of existing commercial properties public-private partnerships and flexibility on development regulations (i.e., parking requirements).
 - c. *LU 5.1.3* Amend existing zoning code to provide a finer grain of detail in the commercial zoning category (i.e., tourist commercial, general business, neighborhood commercial, big box commercial, etc.) and to update the allowable and special uses within each new commercial zone.
 - d. *LU 6.1.1* Zone sufficient land for office to meet the projected demand.
 - e. *LU 6.1.2* Ensure future commercially zoned land is compatible with the surrounding land uses. Commercial buildings should positively contribute to the area and its building materials, massing and relationship to the street and sidewalks should reinforce the areas character.

- f. *LU 6.2.1* Zone sufficient land for industrial and light industrial uses to meet the projected demand.
- g. *LU 6.2.2* Ensure future industrial zoned land is compatible with the surrounding land uses. Industrial property should be easily accessible by multiple forms of transportation, utility infrastructure and not on environmentally sensitive land.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-31. Applicability.

(a) This chapter shall not apply to the existing use of any building which shall have complied with all the laws and ordinances in effect prior to the effective date of the ordinance from which this chapter is derived.

(b) All zoning district regulations shall apply to any establishment of a new use or alteration of a building which is intended to change its use, and to any enlarging of a building for a nonconforming use.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-32. Zoning districts established.

In order to regulate and restrict the use and improvement of lands, and the location, type, construction and use of building improvements located within the city; to promote the general welfare, public safety and health; and to preserve personal and property rights; all parcels and tracts of land located within the city, together with any and all building improvements located thereon, shall be zoned into one of the following districts:

Table 94-32.1 Zoning Districts

Classification	District	Abbreviation
Residential Districts	Low Density Residential	LDR
	Medium Density Residential	MDR
	High Density Residential	HDR
Mixed-Use District	Neighborhood Commercial	NC
	Mixed-Use	MU
Commercial Districts	Community Commercial	CC
	Downtown	D
	Entertainment	ENT
Commercial/Industrial Districts	Business	BUS
Industrial Districts	Industrial	I
Agriculture and Open Space Districts	Agricultural	A
	Conservation	CON
Planned Development	Planned Development	PD

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-33. Zoning map.

(a) *Official title.* The location and boundaries of the zoning districts are established as shown on a map, prepared for that purpose, designated as the zoning map. The zoning map, along with all of the notations, references and information shown on the map, are incorporated in, and made part of this chapter.

(b) *Preparation and maintenance.* The planning commission shall be responsible for the preparation and maintenance of the zoning map, which responsibilities the planning commission may assign to city staff.

(c) *Public inspection.* The zoning map shall be available in the planning and development department for inspection and examination by members of the public at all reasonable times.

(d) *Interpretation.* The district boundaries shown on the zoning map are generally along streets, alleys, creeks, property lines or extensions thereof. The following rules shall apply when determining the location of such boundaries. Other questions concerning the exact location of boundaries shall be determined by the planning and development director.

- (1) *Approximate lines.* Boundaries indicated as approximately following centerlines, creek lines, right-of-way lines, property lines, platted lot lines, or the extension of such lines shall be construed to follow the same, unless otherwise noted.
- (2) *Boundary interpretation.* Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:
 - a. The district boundaries are either streets or alleys unless otherwise shown.
 - b. Where the boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and parcels, the district boundaries shall be construed to be parcel lines.
- (3) *Scaled distance.* Distances not specifically indicated shall be determined by using the scale of the map.
- (4) *Divided lots.* Where a district boundary divides a platted lot or a tract under single ownership, the entire lot shall be construed to be within the least restrictive district.

(e) *Vacation.* Whenever any street, alley or public way is vacated by official action of the board, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all areas included in this vacation shall then be subject to all regulations of the extended district.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-34. Annexation.

Any territory hereafter annexed to the city shall be zoned A until changed as provided in this chapter, unless otherwise indicated in the annexation plan of intent.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-35. Building types.

This section describes the building types regulated by this Code. Graphics are illustrative only.

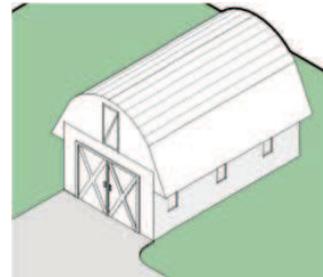
- (a) *Applicability.* The following building types are appropriate in the following districts:

Table 94-48.1: Building Types by Zone District

	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I
Agricultural		•										
Detached single-family dwelling		•	•	•	•	•			•			
Two-Unit single-family dwelling				•	•	•			•			
Attached single-family dwelling				•	•	•			•			
Multi-family dwelling					•	•	•	•	•			
Live/Work						•	•	•	•	•	•	
Commercial						•	•	•	•	•	•	
Mixed-Use center						•	•	•	•	•	•	
Office and flex office						•	•	•	•	•	•	
Industrial												•
Civic		•	•	•	•	•	•	•	•	•	•	•

(b) *Building type descriptions.*

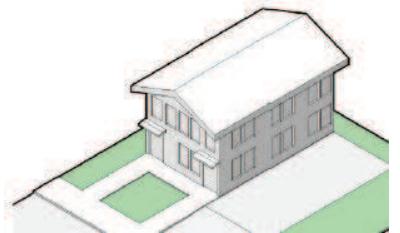
- (1) *Agricultural.* A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying or raising of agricultural commodities, including the raising of livestock.



- (2) *Detached single-family dwelling.* A building, other than a manufactured home or mobile home, designed for residential purposes having suitable accommodations for only one family.



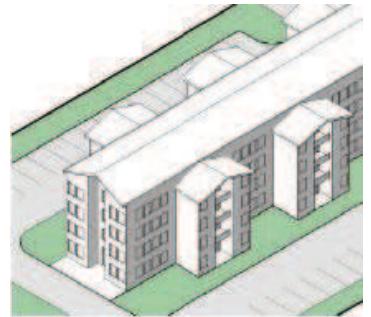
- (3) *Two-unit single-family dwelling.* A building that contains two primary dwelling units with separate external entrances.



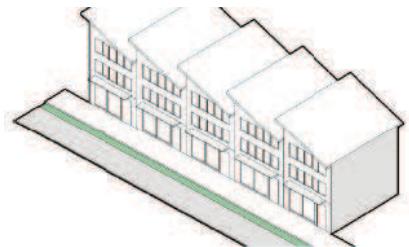
- (4) *Attached single-family dwelling or townhouse.* A building that contains a dwelling unit located on its own lot that shares a wall on one or both sides with a neighboring dwelling.



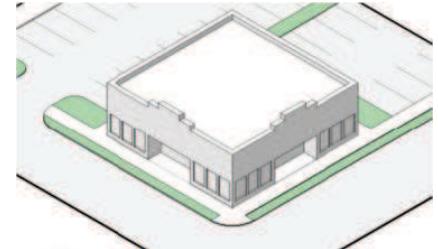
- (5) *Multi-family dwelling.* A building that contains three or more dwelling units that share common walls or floor/ceilings with one or more units, and where the lot is held in a single ownership.



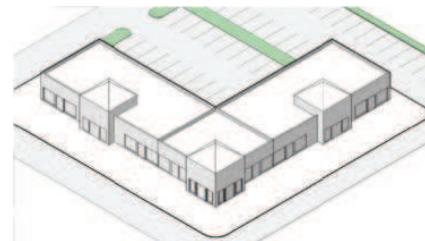
- (6) *Live/work.* A building that contains a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component.



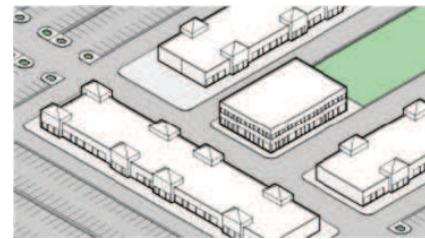
- (7) *Commercial.* A building designed for a single tenant with a commercial use. Depending on the zone district, the scale of the structure can vary from a few thousand square feet (e.g., a coffee shop) to several hundred thousand square feet (e.g., a department store). A single tenant commercial building may be developed as a stand-alone structure, or be incorporated into a larger commercial center.



- (8) *Neighborhood commercial center.* A multi-tenant building, or buildings, designed to accommodate a mix of convenience-oriented retail uses and services. Intended to support and integrate with neighborhoods, neighborhood commercial centers have a modest, pedestrian-oriented scale, and typically do not exceed 150,000 square feet in total. Neighborhood commercial centers may contain a small anchor such as a pharmacy or small grocery.



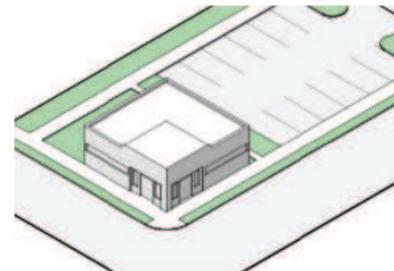
- (9) *Community commercial center.* A building, or buildings, designed to provide a vertical or horizontal mix of uses with ground floor commercial, service or retail, and upper-floor commercial or service. Depending on the zone district, total square footage ranges from 100,000 square feet to 300,000 square feet.



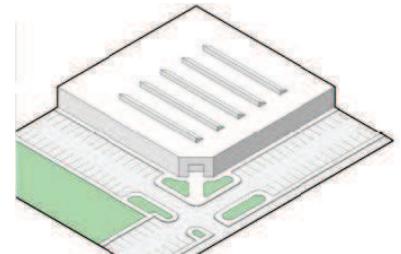
- (10) *Mixed-use center.* A building designed to provide a vertical mix of uses with ground floor commercial, service or retail, and upper-floor commercial, service or residential.



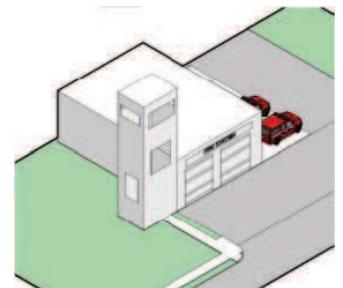
- (11) *Office and flex office.* A building designed for office use that may be occupied by one or more tenants for business uses which may include accessory retail uses. May also include flex office that is a building designed to provide a vertical or horizontal mix of uses with ground-floor office or retail.



- (12) *Industrial.* A building designed for industrial use including manufacturing, warehousing and office.



- (13) *Civic.* A building designed to house public, civic or institutional uses.



(Ord. No. 2021-0101, § 2, 9-14-2021; Ord. No. 2024-0043, § 2, 5-14-2024)

Editor's note—Ord. No. 2021-0101, § 2, adopted Sept. 14, 2021 added new provisions designated as § 94-35 and renumbered existing §§ 94-35—94-47 as §§ 94-36—94-48.

Sec. 94-36. Conservation District (CON).

(a) *Purpose.* The Conservation District seeks to protect and preserve natural resources, landscapes and environmentally sensitive areas owned by public entities. Conservation Districts may include forests, wetlands, floodplains and unique habitats and landscapes. To preserve access to clean air, pure water, natural recreation areas and scenic natural beauty, Conservation Districts restrict the subdivision and development of land. Parks, fish, wildlife and nature preserves are permitted in Conservation Districts, as well as limited forestry and agricultural uses. Conservation Districts may also accommodate limited structures and infrastructure to support the preservation and enjoyment of the natural areas within them.

(b) *Uses.* All uses in the CON District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the CON District shall conform to the site plan approved for the project.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-37. Agricultural District (A).

(a) *Purpose.* Agricultural Districts maintain agricultural operations and preserve agricultural lands used for crop production or the raising of livestock. In some cases Agricultural Districts may serve as a "holding zone" for land where future urban development is possible, but not yet appropriate due to the unavailability of urban level facilities and services. Exurban, large-lot residential subdivisions are not appropriate in Agricultural Districts, and should instead be focused in Residential Districts where there is adequate infrastructure and services to accommodate them.

(b) *Uses.* All uses in the A District shall conform to Table 94-60.1, Permitted Uses.

(1) Livestock standards shall conform to this Code.

(c) *Dimensions.* Development in the A District shall conform to the following dimensional standards:

Table 94-36.1 A Dimensional Standards

Structure Type	Lot Size. (min. sq. ft.)	Setbacks (min. ft.)(1)				Max. Height (ft.)
		Front	Interior	Side	Rear	
Detached single-family dwelling	40,000	35	25	35	50	35
Accessory structure	—	Not permitted	Non-livestock: 5 Livestock: 35	Non-livestock: 5 Livestock: 35	Non-livestock: 5 Livestock: 35	50

Notes: [1] Livestock must be 75 feet from main family dwelling
(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-38. Low Density Residential District (LDR).

(a) *Purpose.*

- (1) The Low Density Residential District is intended for neighborhoods in the city consisting primarily of single-family homes on individual building lots. The Low Density Residential District is the least intense of three residential zoning districts with restrictions on the density and intensity of use to protect and enhance the character of neighborhoods. The average density in this district should not exceed six dwelling units per acre.
- (2) Development in Low Density Residential Districts should balance development needs with preservation of sensitive environmental features, and encourage clustering of development to preserve open space, take advantage of views, provide access to natural amenities, and minimize infrastructure costs. More compact development may be appropriate to minimize impacts to steep slopes, drainage areas, woodlands, and other valued natural features.
- (3) While focused on detached single-family homes, the Low Density Residential District is intended to accommodate a variety of housing types, styles and sizes to provide diverse housing options and accommodate the range of age groups, lifestyles and economic levels within the community. The Low Density Residential District also accommodates civic, open space and other limited nonresidential uses which are designed to be integrated as part of a complete neighborhood. Low Density Residential Districts should be located and coordinated closely with Neighborhood Commercial Districts that provide convenient local access to shopping, services and amenities.

(b) *Uses.* All uses in the LDR District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the LDR District shall conform to the following dimensional standards:

Table 94-37.1 LDR Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)[1]				Development Coverage (max.)		Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear	Density (min/max) (du/ac)	FAR		
				Interior	Abutting Street					
Detached single-family dwelling	5,000	40	25	5	25	15	0.5-6	—	35	
Civic	7,500	40	25	25	25	15	—	0.5	35	
Accessory structure	—	—	Not permitted	5[2]	5[2]	5[2]	—	—	35	
Notes:	[1] In all locations where building lines, setback lines or yard lines are shown on plats that have been recorded in the office of the recorder of deeds of the county, the minimum setback or front yard shall be as shown on the plat. [2] 15 feet required between primary and accessory structures. When a building permit is not required for accessory structures, it may be reduced to ten feet.									

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-39. Medium Density Residential District (MDR).

(a) *Purpose.* The Medium Density Residential District incorporates housing units at a density of six to 12 dwelling units per acre, and includes both attached and detached housing structures. The Medium Density Residential District is intended to accommodate a variety of housing types, styles and sizes at moderate densities to provide diverse housing options and accommodate the range of age groups, lifestyles and economic levels within the community. Medium Density Residential Districts also accommodate civic, open space and other limited nonresidential uses that are thoughtfully integrated as part of a complete neighborhood. Medium Density Residential Districts permit smaller lots, smaller units and more varied housing configurations than Low Density Residential districts, allowing for more flexible infill development, and more attainable housing costs for residents. Established neighborhoods around the downtown, and new neighborhoods adjacent to employment and activity centers, are ideal locations for Medium Density Residential Districts.

(b) *Uses.* All uses in the MDR District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the MDR District shall conform to the following dimensional standards:

Table 94-38.1 MDR Dimensional

Building Types	Lot		Setbacks (min. ft.)[1]				Development Coverage (max.)		Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear	Density (min/max)	FAR		
				Interior	Abutting Street					
Detached single-family dwelling	4,000	30	15	5	15	15	6/12	—	35	

Building Types	Lot		Setbacks (min. ft.)[1]				Development Coverage (max.)		Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear [2]	Density (min/max)	FAR		
				Interior	Abutting Street					
Two-Unit single-family dwelling	4,000	30	15	5	15	15	6/12	—	35	
Attached single-family dwelling	2,200	21/unit	15	0	15	15	6/12; 3 unit min.	—	35	
Civic	7,500	—	15	15	15	15	—	0.5	35	
Accessory structure	—	—	Not permitted	5[3]	5[3]	5[3]	—	—	35	
Notes:	<p>[1] In all locations where building lines, setback lines or yard lines are shown on plats that have been recorded in the office of the recorder of deeds of the county, the minimum setback or front yard shall be as shown on the plat.</p> <p>[2] If more than one building is constructed on a corner parcel, there shall not be less than 20 feet between the front and rear building.</p> <p>[3] 15 feet required between primary and accessory structures.</p>									

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-40. High Density Residential District (HDR).

(a) *Purpose.* The High Density Residential District is the most dense and intense of the city's residential zoning districts, generally consisting of densities of greater than 12 units per acre. High Density Districts feature a carefully integrated mixture of housing of various styles, sizes and densities, but are oriented more toward attached multi-family development than detached single-family units. Limited commercial, service and community uses are also permitted. High Density Residential Districts should be located in close proximity to commercial or employment zoning districts, and connected with a street network, transit, pedestrian and bicycle facilities that link residents to employment and activity centers. New High Density Residential development projects should include design review to ensure that these projects adequately serve resident needs, provide desired amenities and support the city's high quality of life.

(b) *Uses.* All uses in the HDR District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the HDR District shall conform to the following dimensional standards:

Table 94-39.1 HDR Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)[1]			Development Coverage (max.)		Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Min. Lot Width (ft.)	Front	Side		Rear [2]	Density (min/max)		
				Interior	Abutting Street				
Detached single-family dwelling	3,000	30	15	5	15	10	8/16	—	35
Two-Unit single-family dwelling	3,000	30	15	5	15	10	12/24	—	35; 50 if stacked
Attached single-family dwelling	2,200	21/unit	15	0	15	10	12/24; 3 unit min.	—	35; 50 if stacked
Multi-family dwelling	4,000	—	15	5	15	10	12/24	—	75
Civic	7,500	—	15	15	15	15	—	0.5	50
Accessory structure	—	—	Not permitted	5[3]	5[3]	5[3]	—	—	35
Notes:	<p>[1] In all locations where building lines, setback lines or yard lines are shown on plats that have been recorded in the office of the recorder of deeds of the county, the minimum setback or front yard shall be as shown on the plat.</p> <p>[2] If more than one building is constructed on a corner parcel, there shall not be less than 20 feet between the front and rear building.</p> <p>[3] 15 feet required between primary and accessory structures.</p>								

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-41. Neighborhood Commercial District (NC).(a) *Purpose.*

- (1) Neighborhood Commercial Districts provide needed services, amenities and community spaces to surrounding neighborhoods. Neighborhood Commercial Districts are characterized by small scale retail and service uses that may include mixed-use or attached housing development. They are compact, pedestrian-friendly developments that have good connections to the surrounding neighborhoods. Geared toward the convenience needs of immediately surrounding residents, Neighborhood Commercial Districts should be located within a five to ten minute walk of residential neighborhoods. Neighborhood Commercial Districts are sometimes anchored by a small grocery store, specialty market or pharmacy. Other supporting uses should match the scale and intensity of the neighborhood setting, and may include small offices, restaurants or other convenience-oriented retail and services.
- (2) Neighborhood Commercial Districts may be developed as a discrete commercial center, or function as infill development within, or adjacent to, neighborhoods. Neighborhood Commercial development should focus on pedestrian-friendly design that connects the business and amenities to their residential neighborhoods. Neighborhood Commercial Districts are often located near, or centered on, a civic space that defines the area, and provides a focal point for community gathering.

- (b) *Uses.* All uses in the NC District shall conform to Table 94-60.1, Permitted Uses.
- (1) Residential uses are encouraged in the development, but are not permitted on the ground floor of a vertical mixed-use structure.
- (c) *Dimensions.* Development in the NC District shall conform to the following dimensional standards:

Table 94-40.1 NC Dimensional Standards

Building Types	Lot		Setbacks (ft.)[1]			Development Coverage (max.)		Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Max Lot Coverage (%)	Front (max.)	Side (min.)		Rear (min.)	Density (min/max)		
Interior	Abutting Street								
Detached single-family dwelling	3,000	30	15	5	15	10	8/16	—	35
Two-Unit single-family dwelling	3,000	30	15	5	15	10	12/24	—	35; 50 if stacked
Attached single-family dwelling	2,200	70	15	0	15	10	12/24	—	35
Multi-family dwelling	4,000	70	15	0	15	10	12/24	—	75
Live/Work [2]	5,000	70	15	0	15	10	—	1.0	50
Commercial (up to 7,000 sq. ft. total)	[3]	70	0	0	15	10	—	1.0	50
Mixed-Use center	[3]	70	0	0	15	10	—	1.0	50
Office and flex office	[3]	70	0	0	15	10	—	1.0	50
Civic	[3]	70	0	0	15	10	—	1.0	50
Accessory structure, Residential and Civic Only	—	—	Not permitted	5[3]	5[3]	5[3]	—	—	35
Notes:	<p>[1] NC abutting residential shall match the side yard setbacks of the residential district and provide a 20-foot rear yard setback.</p> <p>[2] Standards for new construction, the city may permit conversion of existing structures that do not meet these dimensional standards.</p> <p>[3] Must meet structure size and setbacks.</p>								

Floor-to-ceiling heights and floor area of ground floor space.

- (1) All commercial floor space provided on a ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 11 feet.
- (2) All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:
- At least 800 square feet or 25 percent of the buildable lot area, whichever is greater, on lots with street frontage of less than 50 feet; or
 - At least 20 percent of the buildable lot area on lots with 50 feet or more of street frontage.

Parking for mixed-use and nonresidential structures shall be located within either side or rear yard. (Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-42. Mixed-Use District (MU).

(a) *Purpose.* Mixed-Use Districts are intended as dense, diverse, walkable areas that facilitate residential, commercial, employment and recreation uses in a single location. Mixed-Use Districts should incorporate a variety of complementary uses that are mutually supportive and integrated into the community. The density and precise mix of uses in the Mixed-Use District may vary, but these districts should always be located in, or adjacent to key centers of activity. Successful Mixed-Use Districts require an active and inviting public realm, and safe and inviting pedestrian amenities. Design of public and private components is critical in Mixed-Use Districts to ensure that the concentrated mix of uses and activities functions efficiently and creates an active, inviting environment. Common mixed-use development configurations include active uses such as retail, restaurants and services at the street level, with residential or office space above.

(b) *Uses.* All uses in the MU District shall conform to Table 94-60.1, Permitted Uses.

(1) In the Mixed-Use District, a mix of uses—either within a single building or on a development site—shall be provided unless it can be demonstrated that adjacent properties provide, or will provide a complementary diversity of uses. The uses of adjacent properties can be established through one of the following: (1) existing uses; (2) approved site plan for development; or (3) approved area or neighborhood plan.

(c) *Dimensions.* Development in the MU District shall conform to the following dimensional standards:

Table 94-41.1 MU Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)				Development Coverage (max.)		Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Max. Lot Coverage (%)	Front	Interior	Abutting Street	Rear	Density (min/max)	FAR		
Detached single-family dwelling	3,000	30	15	5	15	10	0.5/16	-	35	
Two-Unit single-family dwelling	3,000	30	15	5	15	10	12/24	-	35; 50 if stacked	
Attached single-family dwelling	2,200	70	15	5	15	10	12/24	-	35; 50 if stacked	
Multi-family Dwelling	4,000	70	15	0	0	10	12/24	1.0	75	
Live/Work	5,000	70	15	0	0	10	—	1.0	50	
Mixed-Use center (up to 60,000 sq. ft.)	[3]	70	0	0	0	10	—	1.0	[4]	
Office and flex office	[3]	70	0	0	0	10	—	1.0	[4]	
Civic	[3]	70	0	0	0	10	—	1.0	[4]	
Notes:	<p>[1] MU abutting residential shall match the side yard setbacks of the residential district and provide a 20-foot rear yard setback.</p> <p>[2] Standards for new construction, the city may permit conversion of existing structures that do not meet these dimensional standards.</p> <p>[3] Must meet structure size and setbacks.</p> <p>[4] Maximum heights: (a) fronting arterial street: 75 ft, (b) fronting local or collector street: 50 ft, (c) fronting or adjacent to residential: 35 ft.</p>									

Floor-to-ceiling heights and floor area of ground floor space.

- (1) All commercial floor space provided on a ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 11 feet.
- (2) All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:
 - a. At least 800 square feet or 25 percent of the buildable lot area, whichever is greater, on lots with street frontage of less than 50 feet; or
 - b. At least 20 percent of the buildable lot area on lots with 50 feet or more of street frontage. Parking for mixed-use and nonresidential structures shall be located within either the side or rear yard.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0028, § 2, 3-12-2019; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-43. Community Commercial District (CC).

(a) *Purpose.*

- (1) Community Commercial Districts provide a diversity of retail, service, office, finance and related business uses to serve the needs of community residents and the larger region. In the Community Commercial District, the size of buildings are larger, and the intensity and density of uses are greater than in Neighborhood Commercial Districts. Community Commercial Districts should be concentrated at major activity centers, along high traffic transportation corridors and are ideally served by transit.
- (2) Because Community Commercial Districts support multiple neighborhoods, they may include larger-scale tenants, including hardware stores, apparel, sporting goods and other larger-format retailers. Community Commercial Districts also accommodate a wide range of commercial uses, including auto-oriented uses. However, the Community Commercial District enables commercial activity centers and corridors to transform over time into more dense, diverse, and walkable places that incorporate other types of uses.
- (3) Community Commercial Districts should be supported and surrounded by adjacent multi-family and mixed-use development that capitalize on the proximity to services, and provide a transition to Lower Density Residential neighborhoods.

(b) *Uses.* All uses in the CC District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the CC District shall conform to the following dimensional standards:

Table 94-42.1 CC Dimensional Standards

Building Types	Lot Area (min. sq. ft.)	Setbacks (min. ft.)				FAR/Max. Building Size	Max. Height (ft.)
		Front	Interior	Abutting Street	Rear		
Multi-family Dwelling	4,000	0	0	0	10	Min/Max Density: 12-24 du/ac	75
Comm.	7,500	25	0	20	10	2.0:1	100 [1]
Office and flex office	7,500	25	0	20	10	2.0:1	100 [1]
Civic	7,500	25	0	20	10	2.0:1	100 [1]

Building Types	Lot Area (min. sq. ft.)	Setbacks (min. ft.)				FAR/Max. Building Size	Max. Height (ft.)
		Front	Interior	Abutting Street	Rear		
Notes:	[1] Every building in excess of 50 feet high shall provide an additional one foot of side, rear and front setback for each additional two feet in height above 50 feet.						

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-44. Downtown District (D).

(a) *Purpose.* The Downtown District is intended to maintain and enhance the city's downtown as a thriving and charming mixed-use activity center. In the Downtown District, the historic character should be protected and celebrated while providing flexibility for new investment and development that complements the character of the downtown and adjacent neighborhoods. In the Downtown District, pedestrian-oriented streets support the vitality of ground level retail, and enhance the quality of life for downtown residents, visitors and workers. Specially adapted standards for building facades, ground floor uses, infill construction, parking and other conditions unique to the downtown area ensure the district remains active, inviting, and functional.

(b) *Uses.* All uses in the D District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the D District shall conform to the following dimensional standards:

Table 94-43.1 D Dimensional Standards

Building Types	Lot Area (min. sq. ft.)	Setbacks (min. ft.)[1]				Development Coverage (max.)		Max. Height (ft.)
		Front	Interior	Abutting Street	Rear [2]	Density (min du/ac)	FAR	
Multi-family dwelling	4,000	0	0	0	10[6]	12-24 du/ac	—	75
Live/Work [3]	5,000	15	0	15	10[6]	—	2.0	50
Commercial	[5]	0	0	0	10[6]	—	2.0	75
Office and Flex office	[5]	0	0	0	10[6]	—	2.0	75
Civic	[5]	0	0	0	10[6]	—	2.0	75
Notes:	<p>[1] D abutting residential shall match the side yard setbacks of the residential district and provide a 20-foot rear yard setback.</p> <p>[2] If more than one building is constructed on a corner parcel, there shall not be less than 20 feet between the front and rear building and the rear yard of the rear building shall not be less than 20 feet.</p> <p>[3] Standards for new construction; the city may permit conversion of existing structures that do not meet these dimensional standards.</p> <p>[4] Special use/civic use side yard setback is 25 feet. The side yard of a commercial parcel adjoining a residential district shall be no less than five feet. If a side road is provided for a commercial building, it shall be no less than ten feet wide.</p> <p>[5] Must meet structure size and setbacks.</p> <p>[6] Rear yard adjoining residential shall be ten feet. If an alley is provided for a nonresidential building, the rear yard setback shall be no less than ten feet from the alley.</p>							

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-45. Entertainment District (ENT).

(a) *Purpose.* The Entertainment District is intended to protect and enhance the city's primary entertainment corridor as a major visitor destination, key economic driver and important gateway into the community. The Entertainment District encompasses a wide range of entertainment uses including theaters, museums, rides and other attractions. Lodging and retail uses are also major components of the Entertainment District. Standards in the Entertainment District are focused on enhancing the visitor experience and function of the corridor. The Entertainment District supports high quality development and public realm improvements that enhance the visitor experience and function of the corridor. The Entertainment District is also specially tailored to support the eclectic character and dynamic creativity that is the hallmark of Branson's entertainment.

(b) *Uses.* All uses in the ENT District shall conform to Table 94-60.1, Permitted Uses. Multi-family dwelling is prohibited in the Entertainment District.

(c) *Dimensions.* Development in the ENT District shall conform to the following dimensional standards:

Table 94-44.1 ENT Dimensional Standards

Building Types	Lot		Setbacks (min. ft.)[1]				Development Coverage (max.)	Max. Height (ft.)	
	Lot Area (min. sq. ft.)	Max Lot Coverage	Front	Interior	Abutting Street	Rear [2]			
Commercial	[4]	70	25	0	0	10[5]	2.0	75	
Civic [3]	[4]	70	25	0	0	10[5]	2.0	75	
Theater	[4]	70	25	0	0	10[5]	As approved by site plan, not to exceed	100	
Amusement	[4]	70	25	0	0	10[5]		100[6]	
Lodging	[4]	70	25	0	0	10[5]		5.0	
Notes:	[1] ENT abutting residential shall match the side yard setbacks of the residential district and provide a 20-foot rear yard setback.								
	[2] If more than one building is constructed on a corner parcel, there shall not be less than 20 feet between the front and rear building and the rear yard of the rear building shall not be less than 20 feet.								
	[3] Special use/civic use side yard setback is 25 feet. The side yard of a commercial parcel adjoining a residential district shall be no less than five feet. If a side road is provided for a commercial building, it shall be no less than ten feet wide.								
	[4] Must meet structure size and setbacks.								
	[5] Rear yard adjoining residential shall be ten feet. If an alley is provided for a nonresidential building, the rear yard setback shall be no less than ten feet from the alley.								
	[6] Height limit may be increased to 200 feet for entertainment structures and features that are at least 50 percent transparent with planning commission approval of site plan.								

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2021-0101, § 2, 9-14-2021; Ord. No. 2024-0043, § 2, 5-14-2024)

Sec. 94-46. Business District (BUS).

(a) *Purpose.* Business Districts accommodate a variety of office and light industrial uses that are not ideally located in retail-focused commercial districts. Business Districts include free standing office buildings, office parks, medical facilities and multi-tenant professional offices. Business Districts may also include research or other light industrial uses where these uses are compatible with, or accessory to, office and professional uses in the area. Light assembly or manufacturing may be appropriate

where high-quality planned developments integrate a mix of office and light industrial uses. In Business Districts, complementary retail and services should be limited in scale and carefully integrated with surrounding business uses.

(b) *Uses.* All uses in the BUS District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the BUS District shall conform to the following dimensional standards:

Table 94-45.1 BUS Dimensional Standards

Building Types	Building Size (max. sq. ft.)	Lot Area (min. sq. ft.)	Setbacks (min. ft.)				Lot Coverage (max, %)	Max Height (ft.)
			Front [1]	Interior [2]	Abutting Street	Rear		
Office and Flex office	n/a	n/a	25	5	20	10	60	40
Notes:	<p>[1] Where all the frontage on one side of the street between two intersecting streets is located in the BUS District, no front yard shall be required. Where the frontage on one side of the street between two intersections is located partly in the BUS district and partly in any residential district, the front yard requirements shall be the same as those in the residential district.</p> <p>[2] BUS adjoining residential shall provide a ten-foot side yard setback.</p>							

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-47. Industrial District (I).

(a) *Purpose.* Industrial Districts are intended for more intensive industrial uses including manufacturing, assembly and large-scale distribution. Research, warehousing and other light industrial uses are also appropriate in Industrial Districts. In Industrial Districts, complementary retail and service uses should be limited in scale and carefully integrated with surrounding industrial uses.

(b) *Uses.* All uses in the I District shall conform to Table 94-60.1, Permitted Uses.

(c) *Dimensions.* Development in the I District shall conform to the following dimensional standards:

Table 94-46.1 I Dimensional Standards

Building Types	Building Size (max. sq. ft.)	Lot Area (min. sq. ft.)	Setbacks (min. ft.)				Lot Coverage (max, %)	Max Height (ft.)
			Front [1]	Interior [2]	Abutting Street	Rear		
Industrial	n/a	n/a	25	5	20	10	60	40
Notes:	<p>[1] Where all the frontage on one side of the street between two intersecting streets is located in the I District, no front yard shall be required. Where the frontage on one side of the street between two intersections is located partly in the I District and partly in any residential district, the front yard requirements shall be the same as those in the residential district.</p> <p>[2] I adjoining residential shall provide a ten-foot side yard setback.</p>							

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-48. Planned development (PD).

(a) *Purpose.* This section is intended to encourage flexible development patterns that are not specifically provided for in this chapter. It is the purpose of this section:

(1) To promote and permit flexibility that will encourage innovative and imaginative approaches in land development and renewal that will result in a more efficient, aesthetic, desirable, and economic use of land while maintaining density and intensity of use consistent with the applicable adopted plans, regulations, and policies of the city;

- (2) To promote development within the city that can be conveniently, efficiently, and economically served by existing local utilities and services or by their logical extension;
 - (3) To promote design flexibility including placement of buildings, use of open space, pedestrian and vehicular circulation systems to and through the site, and off-street parking areas in a manner that will best utilize potential on-site characteristics such as, topography, geology, geography, size and proximity;
 - (4) To provide for the preservation of historic or natural features where they are shown to be in the public interest, including but not limited to such features as: drainage ways, floodplains, existing topography or rock outcroppings, unique areas of vegetation, historic landmarks or structures;
 - (5) To provide for compatibility with the area surrounding the project site;
 - (6) To provide for usable and suitably located open space such as, but not limited to, bicycle paths, playground areas, courtyards, tennis courts, swimming pools, planned gardens, outdoor seating areas, outdoor picnic areas, and similar open space;
 - (7) To minimize adverse environmental impacts of development;
 - (8) To improve the design, quality and character of new development; and
 - (9) To provide compensating community benefits to offset any impacts of the development, and in recognition of design flexibility.
- (b) *Eligibility criteria.* All of the following criteria must be met for a project to be eligible to apply for PD approval.
- (1) *Minimum lot size.*
 - a. Projects located outside of the Downtown and Entertainment Districts must be a minimum of five acres.
 - b. Projects located within the Downtown or Entertainment Districts may be less than five acres provided the PD combines two or more parcels of land.
 - (2) *Consistency with comprehensive plan.* The proposed development shall be consistent with the Community Plan 2030 and any applicable geographic or specific plan including area, corridor, or neighborhood plans.
 - (3) *Consistent with PD intent.* The proposed development shall be consistent with the intent and spirit of the PD purpose statement.
 - (4) *Economic impact.* The proposed development shall not impede the continued use, or development of, surrounding properties for uses permitted in this chapter or planned for in the Community Plan 2030.
 - (5) *Unified control.* The entire area of the proposed development shall be under single ownership or unified control, such that there is a single entity having responsibility for completing the entire project. This provision shall not prohibit a transfer of ownership or control, provided that a unified ownership remains.
 - (6) *Public benefit.* A recognizable and material benefit will be realized by both the future residents and the city as a whole through the establishment of a PD, where such benefit would otherwise be infeasible or unlikely.
 - (7) *Preservation of site features.* Long-term conservation of natural, historical, architectural, or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as permitted by the underlying zoning district.

- (8) *Sufficient land area for proposed uses.* Sufficient land area has been provided to comply with all applicable regulations of this chapter to adequately serve the needs of all permitted uses in the PD projects, and to ensure compatibility between uses and the surrounding neighborhood.
- (c) *Dimensional and development standards.* The following dimensional and development standards shall apply to all PDs:
- (1) *Overlay district.* A PD shall be an overlay district and shall be applied over an underlying zone district. When a site contains land that is in more than one zoning district, the allowed residential and conditional uses at the required minimum and maximum densities, if applicable, shall be proportionate to the land within the development site devoted to each zoning district.
 - (2) *Setbacks.* Setbacks from the exterior boundary line of the PD shall be comparable to, or compatible with, those of the existing development on adjacent properties. If adjacent properties are undeveloped, setbacks shall match the underlying zoning or the projections of the Community Plan 2030.
 - (3) *Permitted uses.* PD uses shall be limited to those allowed either as permitted, accessory, or special use in the underlying zone district.
 - (4) *Use standards.* Use standards as described in this chapter shall be applicable to PD projects.
 - (5) *Timeshare standards.*

a. *Maximum density.* The maximum number of timeshare dwelling units within a Planned Development (PD) District shall not exceed the number calculated by multiplying the entire area of the property to be used for timeshare purposes by the maximum density shown by Table 94-79.1, except as set forth in the exceptions listed in subsections 94-79(b)(2)—(4). The number of timeshare units may be distributed in any manner over the timeshare portion of the PD consistent with the intent and provisions of this chapter. The development plan shall specify distribution of timeshare units for the PD as a whole or for subareas within the PD as appropriate. In making its determination regarding the distribution of timeshare units, the board may consider compatibility of timeshare densities with other uses within the district as well as outside the district, the impact of timeshare densities on public facilities and services, and the consistency with the master plan and other adopted plans and policies.

Table 94.47.1: Timeshare Density

Abutting Zoning District	Maximum Timeshare Density	Additional Standards
LDR	6 DU/acre	94-78(c)(2)
MDR	12 DU/acre	94-78(c)(3)
HDR	24 DU/acre	94-78(c)(4)
NC/CC/MU	32 DU/acre	—
D/ENT/BUS	32 DU/acre	—
I	32 DU/acre	—

- b. *Timeshare units abutting LDR districts.* The maximum density of timeshare dwelling units within 300 feet of an abutting LDR district may be increased to 12 DU/acre, but only under the following circumstances:
- (i) No building within 300 feet of an abutting LDR zoning district shall exceed two stories in height.

- (ii) All buildings must be set back from an LDR zoning district an additional 25 feet for each two DU/acre in excess of six DU/acre to provide additional buffering. Such additional buffering shall be in excess of the 100 feet minimum buffering required by this chapter and shall be provided along the entire boundary common to the LDR zoning district.
 - (iii) The maximum density of timeshare dwelling units located more than 300 feet from an abutting LDR zoning district shall be 32 DU/acre.
- c. *Timeshare units abutting MDR districts.* The maximum density of timeshare dwelling units within 300 feet of an abutting MDR district may be increased to 24 DU/acre, but only under the following circumstances:
- (i) No building within 300 feet of an abutting MDR zoning district shall exceed two stories in height.
 - (ii) All buildings must be set back from an MDR zoning district an additional 25 feet for each two DU/acre in excess of 12 DU/acre to provide additional buffering. Such additional buffering shall be in excess of the 100 feet minimum buffering required by this chapter and shall be provided along the entire boundary common to the MDR zoning district.
 - (iii) The maximum density of timeshare dwelling units located more than 300 feet from an abutting MDR zoning district shall be 32 DU/acre.
- d. *Timeshare units abutting HDR districts.* The maximum density of timeshare dwelling units within 200 feet of an abutting HDR district may be increased to 32 DU/acre, but only under the following circumstances:

(d) *General procedures.* All PDs are processed in two stages: 1) the preliminary PD, and 2) the final PD. The final PD can only be filed with the city for review and processing after the preliminary PD has been approved or conditionally approved by the board. The approval of a final PD plan shall not constitute the effective dedication of easements, rights-of-way, or access control, nor shall the filed plan be neither the equivalent of, nor substitute for the final platting of land. Specific procedures for conceptual review, preliminary PD, and final PD are outlined below.

- (1) *Pre-application conference.* A pre-application conference is required for a PD application.
- (2) *Coordination with subdivision review.* Subdivision review, if applicable, may be carried out concurrently with the review of PD plans under this section. If subdivision approval is required for the subject property, the PD plans required under this section shall be submitted in a form that satisfies the requirements for preliminary and final subdivision plat approvals.
- (3) *Application without subdivision review.*
 - a. Where subdivision review is not required, the preliminary development plan shall be reviewed as a zoning change, and shall be processed in the same manner specified by this chapter. The applicant shall submit a PD application that meets the requirements of the PD application form, including but not limited to the following information:
 - (i) A legal description of the site proposed for PD designation, including a statement regarding present ownership and present zoning.
 - (ii) A master conceptual plan that indicates tract or parcel locations and dimensions; density per gross and per net acres in the development and in each land use component, if appropriate; the intensity of land use in the development and each land use component, if appropriate; the amount of land in common area open space, recreation use or public use, if appropriate; and the treatment of project boundaries.

- (iii) Written text which includes supporting graphics describing the overall concept of the plan; the uses included and any limitations upon uses; building types and prototypical site layouts, if appropriate; provisions for maintenance of common areas; any proposed agreements, dedications or easements; any proposed private covenants and restrictions; and any other information required by this article or pertinent to a determination of compliance with this article.
 - (iv) A circulation plan that indicates roads adjoining the property; the location of access from public roads into the project; and vehicular and pedestrian circulation systems within the project.
 - (v) An improvement plan that indicates water supply and distribution facilities as well as the source of the water supply; sewage collection and disposal, including method and location of sewage discharge; methods and facilities for the management of stormwater runoff; improvements to streets and roads; and any other physical improvements required to support the project.
 - (vi) A statistical summary that indicates the number of acres in the project; the number of acres allocated to each land use within the project; the gross and net residential density within the project and within each land use component of the project; and floor area, floor area ratios, open space ratios, and other data relating the intensity of development to the site size and location.
- b. The following elements are optional at the request of the planning commission:
- (i) A sign plan that indicates the location, size, design, and other pertinent provisions relating to signs within the project.
 - (ii) A parking plan that shows the number of parking spaces as well as their general location and design.
 - (iii) An environmental impact statement indicating possible problem areas within the site as well as solutions to these problems as intended by the developer.
- (e) *Review and decision.* The planning commission may recommend approval of preliminary PD plans, and the board may approve, if the PD overlay district and the associated preliminary PD plan meets all of the following criteria:
- (1) The PD addresses a unique situation, confers a substantial benefit to the city, or incorporates creative site design such that it achieves the purposes of this chapter and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;
 - (2) The PD rezoning will promote the public health, safety and general welfare;
 - (3) The PD rezoning is consistent with the Community Plan 2030 and the purposes of this chapter;
 - (4) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
 - (5) The PD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;

(6) The PD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and

(7) Future uses on the subject tract will be compatible in scale with uses on other properties in the vicinity of the subject tract.

(f) *Preliminary approval lapse.*

(1) *Submission deadline for final PD plan.* Within six months following approval of the preliminary PD plan, the applicant shall initiate the second stage of their application process by filing with the planning and development director a final PD plan, and subdivision plat if necessary, containing in final form all the information required in the preliminary PD plan, along with such other documents as may be necessary to implement the plan or to comply with all applicable requirements of this chapter.

(2) *Time extension.* Upon written request by the applicant prior to the application lapsing, the planning commission, for good cause, may extend the period for filing the final PD plan for a period not to exceed six months.

(g) *Final PD plan.*

(1) *Contents of final PD plan.* The final PD plan shall contain all of the materials included in the preliminary PD plan, together with revisions, if any, that may be approved by the planning commission without an additional public hearing, as described in this section. In addition, the final PD plan shall include the following:

a. *Phasing program.* A document describing any proposed phasing program of the development for all structures, recreational and other common facilities, and open space improvements, including time schedule for commencement and completion dates of construction of each phase. Intermediate phases shall not exceed overall project density and a pro rata allocation of public infrastructure and common open space shall be made as each phase is developed.

b. *Common open space agreement.* A copy of the formal agreement with a public agency or private association for the ownership and maintenance of the common open space is required.

c. *Plats for recording.* A copy of any subdivision plat, plat of dedication, or plat of vacation that may be necessary part of the PD rezoning is required.

d. *Covenant.* A restrictive covenant in a form acceptable to the city attorney limiting development of construction upon the tract as a whole to such development and construction as shall comply with the final PD plan as approved by the board, which document shall include a provision granting the city a right to enforce the same.

(2) *Permitted minor changes from a preliminary PD plan.* Minor changes in the location, siting, and height of structures, streets, driveways, and open spaces may be authorized by the planning commission to be included in the final PD plan in accordance with the following procedures without additional public hearings if such changes are required by engineering or other circumstances not foreseen at the time the preliminary PD plan is approved. No change authorized by this subsection may cause any of the following:

a. A change in the use or character of the development;

b. An increase by more than one percent in the overall coverage of structures;

c. An increase in the density or intensity of use;

d. An increase in the problems of traffic circulation and public utilities;

- e. A reduction of not more than one percent in approved common open space;
- f. A reduction in off-street parking and loading spaces;
- g. A reduction in required pavement widths.

(h) *Review and decision.*

- (1) The planning commission shall review the application and recommend approval, approval with modifications or conditions, or denial, and transmit its findings of fact and recommendation to the board. If the proposed final PD plan does not include any changes from the approved preliminary PD plan that exceed the criteria listed in this section, the planning commission may review the final PD plan without conducting a public hearing. If the proposed plan includes changes that exceed such criteria, the planning commission shall conduct a new public hearing in order to review the proposed final PD plan.
- (2) The planning commission and the board shall review the final PD plan and PD rezoning according to the same approval criteria listed above for preliminary PD plans.

(i) *Final approval lapse.* Development in the approved PD shall commence within 12 months from the approval of the rezoning. If development has not commenced within 12 months, the planning and development director shall initiate a public hearing process for the purpose of considering whether to rezone the property back to its prior zoning classification, or in light of other conditions, to another zoning classification, and authorize the revocation of all permits issued and action taken.

(j) *Revocation.* Revocation of a PD may occur if:

- (1) The landowner or a majority of the owners of property within the subject PD, petition for revocation of such PD plan in whole or in part;
- (2) The project falls more than three years behind the schedule filed with the final PD;
- (3) Construction or application for building permits have not commenced within one year of approval of the final PD by the board;
- (4) Applicants have failed to comply with the approved PD plan or any specific condition of approval; or
- (5) The construction and provision of landscaping, buffers, open space, and public streets and facilities that are shown on the final development plan are proceeding at a slower rate than other project components as determined by the planning and development director.

(k) *Action by review and decision-making bodies.*

- (1) *Planning commission.* The planning commission shall hold a public hearing and make a recommendation to revoke the final PD, keep the final PD in force, require an application amendment, or postpone the application. The planning commission may recommend the imposition of reasonable conditions on such revocation in order to advance the health, safety and welfare of the citizens, such as vacation of the underlying final plat.
- (2) *Board public hearing.* The board shall hold a public hearing and determine whether to revoke, postpone, require amendment, or keep the final PD in force. The board may impose reasonable conditions on such revocation in order to advance the health, safety and welfare of the citizens, such as vacation of the underlying final plat.

- (3) *Effect of revocation.* If the board revokes a PD approval, the zoning on the parcel shall remain in the same base district as it was when the PD overlay was applied.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2021-0101, § 2, 9-14-2021)

Editor's note—Prior to the inclusion of Ord. No. 2021-0101, § 94-48 was entitled "Building types" and derived from: Ord. No. 2018-0030, § 2, adopted Apr. 10, 2018; and Ord. No. 2019-0028, § 2, Mar. 12, 2019. See § 94-35 for similar provisions.

Sec. 94-49. Use dimensional standards.

- (a) *Patio homes.* Patio homes shall meet the following dimensional standards:

(1) *Front yard.*

- a. The minimum front yard setback shall be 25 feet.
- b. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. There shall be a side yard on one side of the structure of no less than ten feet in width.
- b. For corner parcels, there shall be a setback of 15 feet along street frontage.
- c. No accessory structures shall be located in the side yards.

(3) *Rear yard.*

- a. There shall be a rear yard having a depth of not less than 25 feet.
- b. Accessory structures shall not be less than five feet from any rear parcel line, and there shall be a minimum of 15 feet between structures.

(4) *Lot area.* The parcel area for a zero parcel line patio home shall be no less than 4,000 square feet.

(b) *Use-specific height exceptions.* The height standards established in the zone districts do not apply to the following:

- (1) Religious assembly architectural elements including spires, towers, and belfries;
- (2) Flagpoles; and
- (3) Flues.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2021-0101, § 2, 9-14-2021)

Secs. 94-50—94-59. Reserved.

ARTICLE IV. USES

Sec. 94-60. Table of permitted uses.

(a) *Purpose.* Table 94-60.1 lists the uses allowed within all base zoning districts. All uses are defined in this chapter as well as additional standards for specific uses. Approval of a use listed in Table 94-60.1 and compliance with the applicable use-specific standards for that use authorizes that use only. Development or use of a property for any other use not specifically allowed as a permitted or as a special use in Table 94-60.1 is prohibited unless the use is classified by the planning and development director pursuant to subsection (e), below.

(b) *Explanation of table abbreviations.*

- (1) *Permitted by-right uses.* /P/ in a cell indicates that the use is permitted by right in the zone district. Permitted uses are subject to all other applicable regulations of this Code, including the use-specific standards in this chapter.
- (2) *Special uses.* /S/ in a cell indicates that the use is allowed in the zone district only if reviewed and approved as a special use in accordance with the procedures of this chapter. Special uses are subject to all other applicable regulations of this Code, including the use-specific standards in this chapter.
- (3) *Prohibited uses.* A blank cell indicates that the use is prohibited in the zone district.

(c) *Use-specific standards.* Regardless of whether a use is allowed by right, or as a special use, there may be additional standards that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the Table 94-60.1. Cross-references refer to the use-specific standards in this chapter and they apply in all districts unless otherwise specified.

(d) *Table organization.* In Table 94-60.1, land uses and activities are classified into general "use categories" and specific "use types" based on common functional, product or physical characteristics such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts. This classification does not list every use or activity that may appropriately exist within each category, and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The use categories are intended merely as an indexing tool, and are not regulatory.

(e) *Classification of new and unlisted uses.* The city recognizes that new types of land use will develop, and forms of land use not anticipated in this Code may seek to locate in the city. When application is made for a use category, or use type that is not specifically listed in Table 94-60.1, the planning and development director shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:

- (1) The planning and development director is authorized to classify uses on the basis of the use category, subcategory and specific use type descriptions of this chapter.
- (2) When a use cannot be reasonably classified into a use category, subcategory or specific use type, or appears to fit into multiple categories, subcategories or specific use types, the planning and development director is authorized to determine the most similar, and thus most appropriate use category, subcategory or specific use type based on the actual or projected characteristics of the principal use or activity in relationship to the use category, subcategory and specific use type descriptions provided in this section. In making such determinations, the planning and development director must consider:
 - a. The types of activities that will occur in conjunction with the use;
 - b. The types of equipment and processes to be used;
 - c. The existence, number and frequency of residents, customers or employees;
 - d. Parking demands associated with the use; and
 - e. Other factors deemed relevant to a use determination.
- (3) If a use can reasonably be classified in multiple categories, subcategories or specific use types, the planning and development director must categorize the use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate fit.

- (4) If the planning and development director is unable to determine the appropriate use category for a proposed use, the planning and development director is authorized to submit the request to the planning commission for review and determination. The planning and development director shall hold permits and certificates for occupancy of the proposed use pending planning commission determination.

Table 94-60.1 Permitted Uses

Use Category	Ag/Residential					Mixed-Use/Nonresidential						Supplemental Use Standards	
Subcategory	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This reference is to use-specific standards only, other code requirements may apply
Residential													
Household Living													
Dwelling													
Single-Family, Detached		P	P	P	P	P		P					
Single-Family, Attached (3 or more units)				P	P	P		P					
Single-Family, Two-Unit				P	P	P		P					
Single-Family, Patio Home				P	P	P		P					94-49(a)
Multi-Family				P	P	P	P	P	P				
Home Occupation	P	P	P	P	P								94-61(b)(1), 94-62(a)(1)
Live/Work					P	P	P	P	P				94-61(b)(2)
Loft					P		P	P					
Manufactured Homes	S												94-62(a)(2)
Modular Housing	P	P	P	P									
Mobile Home Community					S								94-62(a)(3)
Group Living													
Congregate Living Facility/Senior Housing					P	P	P	P					94-61(b)(3)
Group Home			P										94-61(b)(4)
Nursing, Convalescent, and Rest Home					P	P	P	P					
Shelter Care Facility						S	S						94-61(b)(5)
Civic and Institutional													
Community Services													
Cemetery and Mausoleum	S	S	S	S	S	S	S		S				
Funeral Home/Parlor							P						
Civic, Social and Fraternal Organizations						P	P	P					
Community Center	S					P	P	P	P				
Cultural Institutions	S					P	P	P	P	P			94-61(c)(1)
Government Offices and Facilities	P					P	P	P	P	P	P	P	94-19(a)

Use Category	Ag/Residential					Mixed-Use/Nonresidential						Supplemental Use Standards	
Subcategory	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This reference is to use-specific standards only; other code requirements may apply
Public Service Facilities						P	P	P			P	P	94-61(c)(2)
Religious Assembly		S	S	S	P	P	P	P	P	P			94-61(c)(3)
Day Care Facilities													
Family Day Care Home			S	S	S	P		P					94-61(c)(4)
Group Day Care Home						P	P	P			P		94-61(c)(5)
Child Care Center						P	P	P			P		94-61(c)(5)
Educational Facilities													
School, Primary or Secondary, Public or Private			S	S	S	P	P	P					94-61(c)(6)
School, Vocational-Technical and Trade		S					P	P			P		94-61(c)(6)
University or College		S					P	P			P		94-61(c)(6)
Health Care Facilities													
Alcohol and Drug Abuse Treatment Facility						S	S						
Hospital							P	P					94-61(c)(7)
Medical and Dental Offices and Clinics						P	P	P	P	P	P		
Urgent Care Facility						P	P						
Parks and Open Space													
Athletic Area			S	S	S	S	P	P		P			
Community Garden		P	P	P	P	P		P		P			94-61(c)(8), 94-63(e)(2)
Park and Playground	S	S	S	S	S	S	S	S	S	S	S	S	
Recreation Areas and Facilities	S	S	S	S	S	S	S	S	S	S	S	S	
Transportation													
Airport and Passenger Terminal		S					S				S	P	
Park and Ride Lot					S	S	S	S	S	S	P	P	
Bus Garage and Equipment Maintenance											P	P	
Bus Terminal							P	P	P	P	P	P	
Utility													
Utility													
Major Facilities/Service Yard		S					S				S	P	
Minor Facilities/Office		S	S	S	S	S	P	P	P		P	P	
Wireless Communication Facility													
Antenna and Antenna Support Structure		S					S	S	S	S	P	P	
Telecommunications Tower and Facility		S					S				S	S	
Small Wireless Facility	P	P		P	P	P	P	P	P	P	P	P	94-61(d)(1)

Use Category	Ag/Residential					Mixed-Use/Nonresidential						Supplemental Use Standards	
Subcategory	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This reference is to use-specific standards only, other code requirements may apply
Specific Use Type													
Commercial													
Animal Sales and Service													
Pet Grooming						P	P	P	P				
Pet Shop						P	P	P	P	P			
Kennel		P				P							94-61(d)(1)
Shelter		S				S							94-61(d)(1)
Stables	S	S											94-61(d)(1)
Veterinary Services													
Indoor Only						P	P	P					
With Outdoor Facilities		P											94-61(d)(1)
Office													
Business and Professional Office						P	P	P	P	P	P	P	
Recreation and Entertainment, Outdoor													
Amusement Park or Theme Park							S		S	P			
Recreation and Entertainment, Outdoor							S	S	S	P			
Marina													
Private	S	S					S	S	S				
Public	S	S					S	S	S				
Recreation and Entertainment, Indoor													
Amusement Parlor/ Arcade							P	P	P	P			94-61(d)(2), 94-63(e)(1)
Fortune Telling								P	P				
Recreation and Entertainment, Indoor							P	P	P	P			
Theater							P	P	P	P			94-61(d)(3)
Commercial Services													
Commercial Services, General						P	P	P	P	P	P		
Drag Show								S					
Eating and Drinking													
Brewery, Distillery or Winery							P	P	P	P	P	P	94-63(e)(3)
Food Truck Court							S	S	S	S	S		94-62(b)(1)
Microbrewery						P	P	P	P	P	P	P	94-61(e)(4), 94-63(e)(3)
Restaurant						P	P	P	P	P	P	P	94-63(e)(3)
With Drive-Thru						S	P	P	S	S	P		94-87(j)
Financial Services													
Alternative Financial Services							P						94-61(d)(4)
Automated Teller Machine						P	P	P	P	P	P		94-61(d)(5), 94-87(j)
Financial Institution						P	P	P	P	P	P		94-61(d)(6)
With Drive-Thru						S	P	P	S	S	P		94-87(j)

Use Category	Ag/Residential					Mixed-Use/Nonresidential						Supplemental Use Standards	
Subcategory	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This reference is to use-specific standards only; other code requirements may apply
Specific Use Type						P	P	P	P	P			94-61(d)(7), 94-63(e)(4)
Off-Premises Contacts (OPC)													94-62(b)(2)
Retail Sales									S				
Retail, General						P	P	P	P	P	P		94-61(d)(8)
With Drive-Thru						S	P	P	S	P	P		94-61(d)(8), 94-87(j)
Drug-Store or Pharmacy						P	P	P	P	P	P		94-61(d)(8)
With Drive-Thru						S	P	P	S	S	P		94-61(d)(8), 94-87(j)
Home Supply and Lumberyard							P				P	P	94-61(d)(8), 94-62(c)(1)
Medical Marijuana Dispensary Facility							P						94-61(e)(11)
Comprehensive Marijuana Dispensary Facility							P						94-61(e)(11)
Microbusiness Marijuana Dispensary Facility							P						94-61(e)(11)
Plant Nursery and Greenhouse	P					P	P				P	P	94-61(d)(8), 94-62(c)(1)
Thrift Store						P	P	P	P				94-61(d)(8), 94-61(d)(9)
Personal Services													
Barber [shop], Beauty Shop, Spa						P	P	P	P	P	P		
Dry Cleaner/ Laundromat/ Laundry Service Station						P	P	P	P		P	P	
With Drive-Thru						S	P	P	S		P	P	94-87(j)
Massage Establishment						P	P	P	P	P			
Studio - Art, Fitness, Music, Dance						P	P	P	P	P	P		
Tattoo Parlor						P	P	P	P	P			
Lodging Establishment													
Bed and Breakfast Inn						P	P	P	P	P			
Campground and Vehicle Park	S	S					S		S	S			
Hotel and Motel						S	P	P	P	P	P		94-61(e)(12)
Short-term Rental	P	P		P	P	P	P	P	P	P			94-61(e)(12)
Timeshare Unit						P	P		P				94-61(e)(12)
Vehicles and Equipment													
Car Wash							P				P	P	94-61(e)(1)

Use Category	Ag/Residential					Mixed-Use/Nonresidential						Supplemental Use Standards	
Subcategory	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This reference is to use-specific standards only, other code requirements may apply
<i>Specific Use Type</i>													
Commercial Vehicles													
Rental Services							P				P	P	94-61(e)(2)
Repair Services							P				P	P	94-61(e)(3)
Sales							P				P	P	94-61(e)(2)
Personal Vehicles													
Rental Services							P				P	P	94-61(e)(2)
Repair Services							P				P	P	94-61(e)(3)
Sales							P				P	P	94-61(e)(2)
Commercial Parking													
Service Stations							P	P	P	P	P	P	94-61(e)(4)
Accessory Car Wash							P	P		P	P	P	94-61(e)(5)
Electric Vehicle Charging Station	P	P	P	P	P	P	P	P	P	P	P	P	94-61(e)(6)
Truck Stop												P	94-61(e)(7)
Industrial													
Industrial Services													
Building Maintenance, Sales and Service							P				P	P	94-61(f)(1)
Construction Contractor											P	P	94-61(f)(1), 94-62(c)(1)
Data Center											S		94-61(f)(1), 94-62(c)(2)
Digital Production											P	P	94-61(f)(1)
Medical Research Laboratory											P	P	94-61(f)(1)
Medical Marijuana Testing Facility											P		94-61(d)(10)
Wrecker Service											S	P	94-61(f)(1), 94-61(f)(2)
Energy Production and Natural Resource Extraction													
Energy Production, Renewable													94-61(f)(1)
Cogeneration Facility											S		94-61(f)(1)
Solar Array		S									S	S	94-61(f)(1)
Wind Energy Commercial		S									S	S	94-61(f)(1)
Wind Energy Small		S									S	S	94-61(f)(1)
Mining and Quarrying		S									S		94-61(f)(1)
Oil, Gas, and Mineral Exploration and Production		S									S		94-61(f)(1)
Manufacturing and Assembly													
Artisan/Light General											P	P	94-61(f)(1)
General Manufacturing											P		94-61(f)(1)

Use Category	Ag/Residential					Mixed-Use/Nonresidential						Supplemental Use Standards	
Subcategory	CON	A	LDR	MDR	HDR	NC	CC	MU	D	ENT	BUS	I	Note: This reference is to use-specific standards only, other code requirements may apply
Medical Marijuana-Infused Products Manufacturing Facility		P										P	94-61(e)(11)
Comprehensive Marijuana-Infused Products Manufacturing Facility		P										P	94-61(e)(11)
Publishing												P	94-61(f)(1)
Welding and Automobile Body Shop											S	P	94-61(f)(1), 94-61(f)(3)
Heavy												P	94-61(f)(1), 94-61(f)(4)
Wholesale, Storage, and Distribution													
Freight Terminal and Warehouse												P	94-61(f)(1) 94-61(f)(5)
Warehouse												P	94-61(f)(1)
Commercial (Non-hazardous)												P	94-61(f)(1)
Self-Storage/ Personal Property					S		P					P	94-61(f)(1), 94-61(f)(6)
Wholesale Sales and Distribution												P	94-61(f)(1)
Waste and Salvage												P	94-61(f)(1)
Automobile Parts Recycling												P	94-61(f)(1)
Agricultural													
Agritainment		P											94-61(g)(1)
Animal Raising, Farm or Domestic Use		P											94-61(g)(2)
Crop Raising		P											94-61(g)(3)
Commercial Livestock		P										P	94-61(g)(4)
Farm Products Warehouse and Storage		P										P	
Medical Marijuana Cultivation Facility		P											94-61(e)(11)
Comprehensive Marijuana Cultivation Facility		P											94-61(e)(11)
Microbusiness Marijuana Wholesale Facility		P											94-61(e)(11)

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2018-0195, § 2, 12-11-2018; Ord. No. 2019-0021, § 2, 2-26-2019; Ord. No. 2019-0027, § 2, 3-12-2019; Ord. No. 2019-0028, § 2, 3-12-2019; Ord. No. 2019-0107, § 2, 8-27-2019; Ord. No. 2019-0212, § 2, 12-10-2019; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2020-0155, § 2, 11-10-2020; Ord. No. 2021-0025, § 2, 3-9-2021; Ord. No. 2021-0101, § 2,

9-14-2021; Ord. No. 2023-0074, § 2, 7-11-2023; Ord. No. 2023-0081, § 2, 8-8-2023; Ord. No. 2024-0020, § 2, 3-12-2024; Ord. No. 2024-0021, § 2, 3-12-2024; Ord. No. 2024-0043, § 2, 5-14-2024; Ord. No. 2024-0071, § 2, 8-13-2024; Ord. No. 2024-0086, § 2, 10-8-2024)

Sec. 94-61. Use and structure standards.

(a) *Generally applicable standards.* The following standards are applicable to all uses and structures:

- (1) No structure shall be erected or structurally altered for use, nor shall any structure or land be used, or changed in use, which does not comply with all of the district regulations established by the title for the district in which the structure or land is located.
- (2) No building, or any addition thereto, shall be erected over or under any public sewer or public utility lines, nor upon any platted or recorded easement, unless permission is granted, in writing, by the city or the public utility whose lines are involved.
- (3) Unless otherwise approved as a special event or a temporary use pursuant to this chapter, no portable platforms, tables, stands or other such temporary structures or fabrications shall be erected in any district for the purpose of establishing a business, and no vehicles shall be used for a like purpose unless classified as a food truck.

(b) *Residential uses.*

- (1) *Home occupations.* The intent of this section is to allow low-intensity home occupations that are clearly incidental and secondary to the primary residential use of the property, and that are conducted in a limited manner which creates little exterior indication of the activity, and which does not create a nuisance or otherwise adversely impact adjacent properties or the residential character of the neighborhood.
 - a. *Exemptions.* Yard/garage sales and a home day care shall not be classified as home occupations when operating in compliance with all ordinances and regulations in connection with such use.
 - b. *Registration or special use permit required.*
 - (i) All home occupations shall be required to register upon forms prepared by the planning and development director for the purpose, and shall include a description of the nature and extent of the activity. The applicant shall sign the form verifying that the activity will be conducted in compliance with the standards of operation set out below.
 - (ii) Home occupations that are not identified as permitted home occupation uses in this section may be allowed subject to the issuance of a special use permit. The conditions approval and use of special use home occupations are identified in the special use section of this chapter.
 - (iii) Approval of a home occupation, whether by registration or by special use permit, shall be limited to one year, provided that such approval shall automatically be extended in one-year increments, based on the anniversary date of the approval, unless a request for review is received prior to the anniversary date. A written request for review may be submitted by any person affected by the home occupation; by the planning and development director, the board or planning commission.
 - (iv) Whenever there are questions, or there is uncertainty regarding conformance with the intent or requirements of all regulations regarding home occupations, the planning and development director may forward the home occupation to the planning commission for review.

- c. *Application / inspection.* A request for registration or for approval of a special use permit for a home occupation shall constitute the applicant's agreement to allow, upon reasonable request, the inspection of the premises to the extent necessary to determine compliance and compatibility with these regulations. The planning and development director may inspect a premises suspected of violations for the purpose of determining compliance with these regulations. The refusal to allow inspection upon reasonable request shall be an indication of a failure to comply with the terms of this section. A presumption shall therefore exist that there are violations and appropriate enforcement action to terminate the activity may be taken.
- d. *Permitted home occupations.* The following uses shall require registration, but shall not require approval as a special use permit, provided that full compliance with all standards of operation stated above is required, except as modified herein:
 - (i) *Home office:* An office for the clerical and administrative purposes of receiving mail and telephone calls, maintaining records, and similar functions.
 - (ii) *Off-site sales offices:* An office for direct sales distribution (Amway, Avon, Tupperware, etc.), for manufacturer's representatives, and other similar activities provided that all sales are conducted off-site, and that storage and deliveries do not exceed the limitations within this section.
 - (iii) *Off-site services offices:* An office for services provided off-site, including but not limited to such activities as house cleaning service, yard/garden service, locksmiths, appliance repair, contractors, and similar activities, provided that all services are provided off-site, that storage does not exceed the limitations within this section, that no other employees regularly visit the premises, and that no more than one commercial vehicle is parked at the residence on a regular basis.
 - (iv) *Professional services:* An office/studio for engineers, drafting and similar services provided that client consultation is conducted off-site.
 - (v) *Home instruction:* Individual tutoring or lessons in art, dance, music, swimming or similar activities are permitted, provided that a maximum of six students per day shall be permitted at the premises.
 - (vi) *Home arts/crafts:* The preparation of small arts/crafts items for off-site display and sale, including ceramics with a maximum kiln size of six cubic feet and including dressmaking/sewing with a maximum of three machines, shall be permitted, provided that all ordering, fittings, and deliveries are conducted off-site. The preparation or creation of larger items requiring frequent delivery of materials, movement by vehicles other than passenger vehicles, larger or noisier equipment, or storage does not exceed the limitations within this section.
- e. *Standards of operation.* All home occupations, including those approved by special use permit, shall comply with the following performance standards and limitations, except as specifically modified herein:
 - (i) *Employees:* No person other than an occupant of the residence shall be engaged in the home occupation at the residence, or shall visit the residence on a regular basis. No more than three occupants at a residence shall be engaged in home occupations.
 - (ii) *Space and location:* The maximum area used for the home occupation shall not be greater than 25 percent of the living area of the residence; 500 square feet, including storage areas; or two rooms.
 - (iii) *Storage:* The total area used exclusively for storage shall be no larger than 150 cubic feet. Outside storage in conjunction with a home occupation shall be prohibited.

- (iv) *Alterations:* No alterations of the residential appearance of the property for business purposes, such as the creation of a separate entrance, shall be permitted.
- (v) *Equipment:* The installation, storage or use of any equipment or machinery not normally found in a household or general office shall be prohibited.
- (vi) *Sales and display:* Direct, on-site sales, retail or wholesale, and the display of goods or products on the premises shall be prohibited.
- (vii) *Nuisances:* The creation of noise, odors, vibrations, glare, fumes or electrical interference which is detectable to normal sensory perception outside the structure shall be prohibited.
- (viii) *Deliveries:* No deliveries related to the conduct of the home occupation shall be permitted by vehicles of more than two axles.
- (ix) *Traffic:* Home occupations shall not involve the regular visits of clients, other employees, or any other persons to the residence due to the conduct of the home occupation.
- (x) *Advertising/signs:* Home occupations are permitted one on-premises wall sign for each side of the home that faces a public street. The sign shall be no more than three square feet, and shall not be illuminated.
- (xi) *Vehicles:* Vehicles supporting the home business must be parked in the driveway and not on the street. This includes vehicles such as taxi cabs, day care vans, catering trucks or locksmith trucks.

(2) *Dwelling, live/work.*

- a. The business owner, and the resident's occupant in the residential portion of the live-work unit, must be the same person.
- b. In the Downtown District, the residential living portion of the live/work unit is not permitted on the first floor.
- c. The nonresidential portion of a live-work unit may be only a commercial retail, office, personal services or professional services and counseling activity as defined in these regulations.
- d. *Hours of operation for nonresidential use.* The nonresidential portion of the use shall not operate between the hours of 11:00 p.m. and 6:00 a.m.
- e. *Multiple units.* Multiple live-work units may be located on a block face only if developed as a contiguous group with one unit located on a corner lot, and with no more than five units in the group.
- f. *No drive-through activity.* The use shall not include a drive-through component.

(3) *Manufactured homes.*

- a. New manufactured homes may be placed on any individual lot within a city approved mobile home community or an agricultural zoning district through the issuance of a special use permit, with the following restrictions and regulations:
 - (i) Manufactured homes shall not be placed or occupied on an individual lot without a building permit issued under these regulations.
 - (ii) Each manufactured home placed on an individual lot shall:
 - 1. Be occupied only as a single-family dwelling or business unit.

2. Be placed in conformance with all zoning and setback requirements established for the district in which located.
 3. Accessory structures shall be placed in conformance with the setback and dimensional requirements established for the district in which located. The exterior covering and roofing material of the accessory structure must be the same as that of the dwelling unit.
 4. Have a minimum width of not less than 24 foundation feet as measured at all points perpendicular to the length of the manufactured home which shall be not less than 42 foundation feet. This standard is intended to restrict units to the type which are brought to the site in parts, typically two halves and at least 1,008 square feet minimum.
 5. Roof must be a gable, hip or shed roof of at least three in 12 or greater, and covered with material that is residential in appearance including, but not limited to, approved wood, asphalt composition or fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass or metal roofs; except for permitted deck areas, all roof structures shall provide an eave projection of no less than six inches and no greater than 30 inches.
 6. Have the main entry door facing the street on which the manufactured home is located. A sidewalk shall be installed from the street, driveway or sidewalk adjoining neighboring lots to the front door. The unit must be oriented on the lot so that its long axis is parallel with the street. A perpendicular or diagonal placement may be permitted if there is a building addition or substantial landscaping so the narrow dimension of the unit, as so modified and facing the street, is no less than 50 percent of the unit's long dimension.
 7. Have exterior surface and window treatments that are architecturally compatible with those of neighboring properties, excluding smooth, ribbed or corrugated metal or plastic panels.
 8. Meet applicable off-street parking requirements.
 9. Be placed on a parcel according to approved, pre-submitted building permit, and have a manufacturer's installation manual and an illustration of the finished appearance of the unit.
 10. Units shall be attached to a continuous permanent foundation, which manner of placement shall be as stated on the building permit, and meet all manufacturer's specifications for support.
 11. The exterior foundation material shall consist of continuous concrete or masonry suitable for the outer portion of a finished residence.
 12. Have the tongue and running gear, including axles, removed.
 13. Maintain a minimum of 18 inches of crawl space under the entire manufactured home.
 14. Have permanent steps set at all exits.
 15. Be served by a water supply and sewage disposal system meeting the established city requirements.
 16. Underground public utilities shall be required.
- b. Pre-owned manufactured homes. Pre-owned manufactured homes may not be moved onto an individual lot within the city.

- (4) *Congregate care/senior living.*
 - a. The maximum number of dwelling units shall comply with the zone district in which the facility is located.
 - b. Private open space shall be provided as follows:
 - (i) Ground level units shall be provided a minimum of 100 square feet of private yard with a minimum interior dimension of ten feet.
 - (ii) Upper level units shall be provided a minimum of 70 square feet balcony, with a minimum dimension on at least one side of eight feet.
- (5) *Group homes.*
 - a. Group homes shall comply with the requirements found in the Missouri Statutes and regulations for group homes.
 - b. Group homes shall not be located closer than 1,320 feet from another group home, shall be used exclusively for no more than eight persons, and shall be in compliance with all city, state and federal building, health, safety and fire code provisions.
 - c. Reasonable accommodation by city administrator. In consideration of the requirement of the Federal Fair Housing Act ("FHA") (42 U.S.C. § 3601 et seq.) that local governments make reasonable accommodations in order to permit housing for persons with disabilities, the city administrator, in consultation with the city attorney, is authorized to approve minor modifications of building setbacks, height, lot coverage or occupancy limits in order to provide reasonable accommodation for group homes without the need for an additional hearing. The city administrator may approve a reasonable accommodation other than that requested by the applicant if the city administrator concludes that an alternative accommodation would have fewer impacts on adjacent neighborhoods. The decision of the city administrator regarding a FHA application for a reasonable accommodation shall contain written findings of fact as to the need for the accommodation and the authority to approve the requested accommodation.

(6) *Shelter care facility.*

- a. *Physical characteristics.* All shelter facilities shall meet the following requirements:
 - (i) Compliance with applicable state and local housing, building and fire code requirements.
 - (ii) The facility shall have on-site security during all hours when the shelter is open.
 - (iii) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.
 - (iv) Facilities shall provide secure areas for personal property.
 - (v) If the emergency shelter is proposed in conjunction with a religious facility, the area utilized for emergency shelter facilities may not exceed 50 percent of the total floor area used for the religious facility.
 - (vi) Where a day care facility, elementary school or middle school is operated on the same site as an emergency shelter, the day care and school facilities must be separated from the emergency shelter facilities by means to prevent access from one facility to the other.
- b. *Limited number of beds per facility.*
 - (i) Shelter facilities accessory to a religious facility shall not exceed 20 beds.
 - (ii) All other shelter facilities shall not exceed 40 beds.
- c. *Limited terms of stay.* The maximum term of staying at an emergency shelter is six months in a consecutive 12-month period.
- d. *Parking.* The shelter facility shall provide on-site parking at a rate of two spaces per facility for staff, plus one space per four beds allowed at the maximum capacity. The planning and development director may reduce or waive this requirement where on-street parking is reasonably available.
- e. *Shelter facility management.* A management plan is required for all shelters to address management experience, good neighbor issues, transportation, client supervision, client services and food services. Such plan shall be submitted to, and approved by, the planning and development director prior to operation of the shelter. The plan shall include a floor plan that demonstrates compliance with the physical standards of this chapter. The operator of each shelter shall annually submit the management plan to the planning and development director with updated information for review and approval.

(c) *Civic and institutional uses.*

- (1) *Cultural institutions.* In all residential zone districts, the use shall abut an arterial street. Cultural institutions are permitted to have gift and coffee shops as accessory uses.
- (2) *Public service facilities.* In all residential zone districts, the use shall abut an arterial street.
- (3) *Religious assembly.*
 - a. *Accessory uses.*
 - (i) Uses accessory to the religious assembly shall meet the standards applicable to the use as if the use is a principal use.
 - (ii) Uses accessory to a religious assembly use in a residential district, other than shelter facilities, may only operate between 7:00 a.m. and 10:00 p.m. by right; and between 10:00 p.m. and 7:00 a.m. subject to a special use permit.

- b. *Parking and access.*
 - (i) Parking for the religious assembly use, and any accessory use, shall be for the use that has the greatest parking requirement.
 - (ii) Access shall be provided as follows: 1—200 seats shall have access from local or residential streets; 201—1,000 seats shall have access from a collector street or higher; 1,001 seats and over shall have access from an arterial street.
- (4) *Family day care home.* A family day care home may be allowed as follows:
 - a. State and local licensing requirements are met, including those pertaining to building, fire safety and health codes.
 - b. Parcel size, building size, setbacks and parcel coverage conform to those applicable to the zoning district.
 - c. One off-street parking space is provided for each nonresident or nonfamily member employee in addition to the two spaces per single-family or duplex unit required. The residential driveway is acceptable for this purpose.
 - d. If located on a major arterial street, an off-street drop-off/pickup area, approved by the public works director, must be provided.
 - e. Signage, if any, conforms to the requirements of the zoning district.
 - f. No structural or decorative alteration that will alter the single-family character of an existing residential structure, or be incompatible with surrounding residences, is permitted.
 - g. A family day care home may provide care for no more than ten children.
- (5) *Group day care home and child care center.* A group day care home and child care center may be allowed as follows:
 - a. *Limitation in use of family residence.* No group day care home and child care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for children during the hours the center is in operation, or is separate from the usual living quarters of the family.
 - b. A group day care home and child care center is permitted subject to the following restrictions:
 - (i) State and local licensing standards and requirements are met.
 - (ii) Parcel size, building size, setbacks, screening and landscaping shall conform to the zoning district.
 - (iii) Structure shall meet building, sanitation, health, traffic safety and fire safety code requirements.
 - (iv) A minimum of one off-street parking space shall be provided for each employee, plus an off-street drop-off/pickup area, as approved by the public works director. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be provided and approved by the public works director.
 - (v) Signage, if any, conforms to the requirements of the zoning district.
 - (vi) A solid fence at least six feet high must be installed along each side yard and rear yard parcel line.
 - (vii) No structured area for active play or play structures may be located in a front yard, or within ten feet of a side or rear parcel line.

- (viii) The site must be landscaped in a manner compatible with adjacent residences, as approved by the planning and development director.
 - (ix) No structural or decorative alteration that will alter the residential character of an existing residential structure used for a group day care home or a child care center is permitted. Any new or remodeled structure must be designated to be compatible with the residential character of the surrounding neighborhood.
 - (x) A group day care home or a child care center shall not be located within 300 feet of another group day care home or a child care center, excluding any day care that is an accessory use in a license-exempt facility.
- (6) *Schools.* All uses under the educational facilities category in Table 94-60.1 shall have their principal vehicular entrance and exit on an arterial or collector street; vehicular ingress and egress to local streets is prohibited.
- (7) *Hospital.*
- a. The application shall be accompanied by written proof that the proposal meets all federal, state and county regulations.
 - b. A minimum of 25 percent of the net lot area shall be provided in open space.
 - c. A minimum of three-fourths of the total open space requirement shall be provided as frontage open space to provide a setting for the building, visual continuity within the community, and a variety of spaces in the streetscape. The frontage open space shall not be required to exceed 50 square feet per one foot of public street frontage and shall not be less than 30 square feet per one foot of public street frontage.
 - d. The remainder of the required open space shall be provided in common open space.
 - e. When the height of the building exceeds 50 feet, the following yard requirements shall apply:
 - (i) A side or rear yard of not less than 100 feet shall be maintained where the side or rear of the lot abuts a Low Density Residential District, or abuts an alley that is adjacent to a Low Density Residential District. The 100 feet may include the width of the alley.
 - (ii) A side or rear yard of not less than 75 feet shall be maintained where the side or rear of the lot abuts a High Density Residential District, or abuts an alley that is adjacent to a High Density Residential District. The 75 feet may include the width of the alley.
 - f. Pedestrian entrances shall:
 - (i) Be clearly distinctive from the remainder of the building, and be readily visible from the public street; and
 - (ii) Include an extended foundation base to provide a patient drop-off area of a minimum 900 square feet, extending a minimum 20-foot measured perpendicular from the patient entrance door.
 - g. Heliports shall be located in a manner to minimize the noise impacts on abutting residential uses, according to the following preferences:
 - (i) *First preference:* Ground on side of building opposite any abutting residential areas.
 - (ii) *Second preference:* Roof level of building less than the highest point on side of building away from residential areas.
 - (iii) *Third preference:* Roof at top of building.

- h. Liquid oxygen and other similar materials stored outdoors and in bulk shall be screened from ground-level view by the building, screen wall or screen walls in combination with landscape materials.

(8) *Community gardens.*

a. *Location.*

- (i) Community gardens shall not be located on designated or dedicated park or open space land without approval from the planning commission. Exceptions may be granted for park or open space land that does not contain sensitive habitat and is not contiguous to open space land with sensitive habitat.
- (ii) Community gardens shall be located in areas that receive adequate sunlight for the intended purpose without the removal or excessive trimming of trees.

b. *Use standards.*

- (i) The site shall be designed and maintained so that water and fertilizer will not drain to adjacent property.
- (ii) A minimum three-foot wide, clearly marked entrance path shall be provided from the public right-of-way to the garden.
- (iii) Community gardens shall be located on land that is level enough to support the intended use and meet all Americans with Disabilities Act requirements without the use of retaining walls that exceed three feet in height.
- (iv) Unless permitted by the underlying zoning district, or approved as a special use, on-site sale of community garden products is prohibited except when permitted as an approved temporary use.
- (v) Lawn and garden equipment of the type customarily used by consumers for household lawn and garden care is the only type of motorized equipment allowed. The use of motorized equipment is restricted to hours beginning at 7:00 a.m. and ending at 9:00 p.m.
- (vi) An on-site trash storage container must be provided and located as close as practicable to the rear lot line. Compost bins or piles must also be located as close as practicable to the rear lot line. Trash must be removed from the site at least once a week.
- (vii) The keeping of animals is prohibited.
- (viii) The property must be maintained free of tall weeds and debris. Dead garden plants must be regularly removed and, in any instance, no later than November 15 of each year.
- (ix) Within a residential zoning district, operating hours for community garden activities are restricted to between 5:00 a.m. and 11:00 p.m. daily.
- (x) Customary accessory uses are regulated in the accessory use section.

c. *Signs.* Community gardens in residential zones shall be restricted to one, nonilluminated identification sign not exceeding eight square feet and eight feet in height, and set back a minimum of five feet from the front and side property lines. In all other zoning districts, signs shall comply with the permanent sign standards the applicable zoning district

(d) *Utility uses.*

- (1) *Small wireless facility.* Small wireless facilities shall comply with the following standards:
 - a. Each wireless provider's antenna must fit within an enclosure of no more than six cubic feet in volume; and
 - b. All other equipment associated with the wireless facility, whether ground- or pole-mounted, must cumulatively be 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 to power the small wireless facility.
 - c. 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.

(e) *Commercial uses.*

- (1) *Animal sales and services with outdoor facilities.* Any outdoor activity areas such as kennels, runs or exercise areas shall be subject to the following:
 - a. *General requirements.* The facilities shall:
 - (i) Only be used between the hours of 7:00 a.m. and 10:00 p.m.;
 - (ii) Be supervised by qualified personnel;
 - (iii) Be located at least 300 feet from any residential zone;
 - (iv) Not cause loud and incessant noise or fouling of the air by odor thereby creating annoyance or discomfort to the neighbors or others in close proximity;
 - (v) Not foster an excessive number of flies or other insects; and
 - (vi) Not otherwise cause any unsanitary conditions in the enclosure(s) or the surroundings where the animals are kept.
 - b. *Kennel.*
 - (i) All facilities, including pens, kennels, cages and exercise runs, in the CC District shall be maintained within a completely enclosed, soundproof building so that, to the maximum extent feasible, noise and odor are not detectable offpremises.
 - (ii) Facilities in the A District may have outdoor facilities, including runs and exercise areas, but such facilities must not be located within 1,000 feet of any residential district.
 - c. *Veterinary services (with outdoor facilities).*
 - (i) Facilities in the A District may have outdoor facilities, including runs and exercise areas, but such facilities must not be located within 1,000 feet of any residential district.
- (2) *Amusement parlor/arcade.*
 - a. *Primary or accessory use.* Shall be a primary use when no other primary use exists on a premises, or an accessory use when a primary use does exist on a premises. Standards for amusement parlors/arcades as accessory uses are provided in the accessory use regulations section.

- b. *Standards for primary use.*
 - (i) There shall be permitted one video/amusement machine for each 15 square feet of public floor space, including the space occupied by the machine.
 - (ii) No arcade shall be located within a 1,000-foot radius to any public or private grade school (grades K—12).
- (3) *Theater.* Shall take access from an arterial or higher street classification.
- (4) *Microbrewery.*
 - a. Within a neighborhood commercial district, operating hours are restricted to between 11:00 a.m. and 10:00 p.m. daily.
 - b. Any outside seating area shall not exceed 50 percent of the setback standards for the zoning district which it is located.
 - c. All production, processing, and distribution activities shall be conducted within an enclosed building.
- (5) *Alternative financial establishment.* In addition to requiring a special use permit, an alternative financial establishment shall comply with the following regulations:
 - a. A lot containing an alternative financial establishment shall be located at least 2,000 feet from any lot containing another alternative financial establishment, as measured in a straight line between the nearest points of one lot to the other lot.
 - b. A lot containing an alternative financial establishment shall be located at least 500 feet from any lot zoned or used for residential purposes, as measured in a straight line between the nearest points of one lot to the other lot.
- (6) *Automated teller machines (ATMs).*
 - a. An ATM located away from a bank shall be provided a minimum of two off-street parking spaces, except where the planning and development director determines that no parking is necessary because the ATM is to be located in a primarily pedestrian-oriented area.
 - b. *Trash disposal.* Each outdoor ATM shall be provided with a receptacle sufficient in size to accommodate trash and any smoking materials discarded by ATM users.
- (7) *Financial institution.*
 - a. Banks and financial institutions may be permitted as an accessory to a retail sales establishment in the NC, MU, CC, D or ENT Districts provided that the bank or financial institution is not in a separate, freestanding building.
 - b. Banks or financial institutions that are located within 100 feet of a residential zoning district shall comply with the following requirements:
 - (i) The use shall be compatible with the neighborhood and shall not be detrimental to the same due to increased automobile traffic, noise generated from within the site, or character of proposed building.
 - (ii) The maximum gross floor area of the building shall be 4,000 square feet.
- (8) *Off-premises contacts (OPC).*
 - a. Shall be located inside a building.
- (9) *Retail sales establishment.*
 - a. Shall not maintain exterior storage except as provided in this chapter.

- b. Retail sales establishments that sell large items (e.g., furniture, appliances, lumber, etc.) are not permitted in the Downtown or Entertainment Districts.
- (10) *Thrift store.* All new thrift stores shall observe all development standards of the underlying zoning district, except that they shall also comply with the following additional standards:
- a. *Enclosed activities.* All activities shall be completely enclosed within the building for the use.
 - b. *Collection/receiving area.* The collection area shall be located on the side or rear of the building. Adequate directional signage shall be provided from the main entrance to direct individuals to the collection area. The collection area shall be noticed to prohibit depositing goods when the store is closed unless an enclosed structure such as a charitable drop box is provided.
- (11) *Marijuana facilities.*
- a. *General requirements.* Any medical marijuana dispensary, medical marijuana testing facility, medical marijuana infused products manufacturing, medical marijuana cultivation facility, any type of comprehensive facility, microbusiness dispensary facility, microbusiness wholesale facility shall be subject to the following:
- (i) *Security.*
 - 1. Be monitored at all times by an internet-based, closed-circuit television for security purposes. The camera and recording system shall be of adequate quality, color rendition, and resolution to allow the ready identification of any individual committing a crime anywhere on, or adjacent to the facility. The recordings shall be maintained for a period of not less than 90 days and shall be made available to law enforcement authorities upon request.
 - 2. Have a fireproof vault or safe that is incorporated into, and securely attached to the building structure for the purpose of securely storing cash and any processed marijuana.
 - 3. Have a centrally monitored fire and burglar alarm systems professionally monitored and maintained in good working conditions.
 - 4. Any exterior building lighting and parking area of the facility shall be equipped with lighting fixtures of sufficient intensity to illuminate all interior areas of the lot with an illumination of not less than 1.5 footcandles evenly distributed as measured at ground level. These light fixtures shall be turned on from dusk to dawn.
 - 5. No person or facility shall dispose of marijuana or marijuana-infused products in an unsecured waste receptacle not in possession and control of the facility and designed to prohibit unauthorized access.
 - 6. Have an armed security guard approved under the provisions of the Code on the premises at all times.
 - (ii) *Location.*
 - 1. No marijuana facility may be located within 1,000 feet of a then existing elementary school or secondary school, state licensed child day-care center, or church or place of worship.
 - a. In the case of a freestanding facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church.

- b. If the school daycare, 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, daycare, or church closest in proximity to the facility.
 - c. In the case that the facility is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare, or church to the facility's entrance or exit closest in proximity to the school, daycare, or church.
 - d. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.
2. No Marijuana Facility may be adjacent to or across from any residential district.
 3. No single tenant space may be occupied by multiple marijuana facility types unless the marijuana facility types are licensed to the same person by the state department of health and senior services.
- (iii) *Additional Requirements.*
1. Comply with all regulations issued by the state department of health and senior services for marijuana facilities. If the state's requirement is more restrictive than the city's requirement, then the more restrictive requirement applies.
 2. No person shall, establish or operate any marijuana facility within the city limits without first obtaining a business license to do so from the city as provided in chapter 22 of the Code.
 3. No use of any equipment or process that creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the property boundary.
 4. Have an odor mitigation system that uses activated carbon filters, an ozone generator, UV light exposure, UV-C air disinfection, or other similar odor mitigation technology.
 5. Any and all processing, storage, display, sales, or other distribution of marijuana shall occur within an enclosed building, and shall not be visible from the exterior of the building.
 6. Display its state department of health and senior services issued license on the interior of the facility, visible to the public, at all times.
 7. No on-site consumption of marijuana or marijuana-infused products allowed on the premises of any marijuana facility at any given time.
 8. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m.
 9. Within 30 days of ceasing facility operations, all plants, medical marijuana related equipment, signage, or any other facility-related items shall be removed from the building and site within or upon which the facility previously existed.
- No person under the age of 21 shall be allowed into any comprehensive marijuana facility. No person under the age of 21 shall be allowed into any micro-business facility. No person under the age of 18 shall be allowed into a medical marijuana facility. Notwithstanding the preceding language, a qualifying patient who is too young to enter a medical marijuana dispensary, a comprehensive marijuana dispensary, or micro-business, may do so if such qualifying patient is accompanied by a parent or guardian or if such qualifying patient has been emancipated and shows proof of emancipation.

- b. *Marijuana dispensary facility.* In addition to the general requirements, any medical marijuana dispensary, comprehensive marijuana dispensary, or microbusiness dispensary shall comply with the following regulations:
- (i) Located and operated from a permanent and fixed structure, and not in a trailer, cargo container, or motor vehicle, and the structure shall not be mobile or operate from a transitory location. This subsection shall not prevent the physical delivery of marijuana to a customer, patient or patient's primary caregiver at a location off of the premises of the permittee's marijuana dispensary, to the extent so permitted by law, if:
 - 1. The marijuana was lawfully purchased;
 - 2. The marijuana was delivered only by the permittee or an employee of the permittee;The marijuana is delivered only by the use of a motor vehicle, bicycle, or other lawful means of transportation. Such marijuana may not be delivered by drone or any remotely operated vehicle, or by any self-navigating vehicle.
 - (ii) Any medical marijuana dispensary shall require any customer to display the customer's permit card from the department of health and senior services or other proof of eligibility at the time of each purchase. Any comprehensive marijuana dispensary or microbusiness dispensary facility shall require any customer to show either a permit card as described above or form of identification showing such customer to be no younger than 21 years old.
 - (iii) Only allowed to sell devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana including, but not limited to, rolling papers, and related tools, water pipes, and vaporizers to a qualifying patient, primary caregiver, or an individual no younger than 21 years old.
 - (iv) A sign shall be displayed on the interior of the facility indicating that a qualified patient identification card or primary caregiver identification card, issued from the state department of health and senior services, is required and must be presented to purchase marijuana and marijuana-infused products.
 - (v) No sales to customers who are in cars or to customers who consume the sold products in cars parked on the facility, nor shall it sell products through a sales window to customers who are in cars, for the immediate consumption by the customer either on or off the premises.
 - (vi) The windows and doors of the facility shall not be covered by boards, mesh, grates, materials, or coverings of any kind, except proper blinds and curtains.
 - (vii) No cord or rope type LED lighting surrounding or framing its windows or doors.
 - (viii) Not located be within 1,000 feet of a medical or dental office, clinic, hospital, health care facility or other marijuana dispensary. Such distance shall be measured in the same manner as provided in subsection 94-61(e)11(a)ii of this city's zoning code.

(12) *Lodging.*

- a. *Hotels.*
 - (i) Access to guest rooms shall be restricted exclusively to interior corridors, which shall be accessed via the main lobby of the building or public entryways individually equipped with some form of security controlled access system.
 - (ii) The hotel shall install and maintain, in proper operating order, surveillance cameras in the lobby/lounge area and at each exterior door. The cameras shall be placed so as

to provide visibility to the front and rear exteriors of the building. Monitors shall be provided for security and other hotel personnel so that on-site activities may be viewed at all times. Surveillance cameras shall be in operation 24 hours a day and records of images recorded shall be kept a minimum of 14 days.

- (iii) The hotel shall provide daily housekeeping service and on-site personnel 24 hours a day to provide check-in/check-out services, custodial and maintenance response, or other guest services.

b. Short-term rental.

- (i) Individual rooms within a single-family dwelling shall not be permitted.
- (ii) Shall only be permitted within those planned developments which specifically list the use as being allowed.

c. Timeshare, interval ownership, or fractional fee ("timeshare").

- (i) All units to be converted to timesharing shall comply with the city's adopted fire, health, and building codes.
- (ii) All units to be converted to timesharing shall comply with the requirements of the zone district in which they are located, and all other applicable standards of the code.
- (iii) The marketing and sales practices for a timeshare development shall not include solicitation of prospective purchasers of timeshare units on any street, walking mall, courtyard, or other public property or facility.
- (iv) The parking requirement for a timeshare development shall be calculated by applying the parking standard for the underlying zone district for lodge uses. The parking requirement shall be calculated based on the maximum number of proposed lock-out units in the development, unless an appropriate level of guest transportation services, such as vans, carshare or shuttle vehicles are offered as an alternative to having owners and guests using their own vehicles in the city.
- (v) The owner of a timeshare shall be prohibited from storing a vehicle in a parking space on-site when not using the timeshare.

(13) *Car wash, full- or self-service.*

- a. Vacuums, carpet/steam cleaning machines and blowers shall not be located within a required setback.
- b. Such use shall be set back no less than 100 feet from any residential zoning district.

(14) *Vehicle rental/sales/leasing.*

- a. *Location.* Such use shall be located on a street classified as a collector or arterial.
- b. *Outdoor storage and display areas.* Outdoor storage and display areas for the sale, rental or lease of vehicles, watercraft or trailers shall comply with the following standards:
- (i) Outdoor storage areas shall be screened from residential and Mixed-Use Districts by an opaque wall or fence at least six feet in height, and shall be constructed of one of the following materials: brick, stone, masonry units, wood or solid vinyl. Wood fences shall provide masonry columns not more than 30 feet on-center.
- (ii) Paved areas reserved for the storage of vehicles, watercraft or trailers for sale, rent or lease are not required to be striped for individual spaces.
- (iii) Outdoor display areas for vehicles, watercraft or trailers shall conform to the design standards of this chapter. No vehicle, watercraft or trailer for sale, rent or lease shall occupy a required parking space.

- (iv) Not more than one vehicle, watercraft or trailer display pad within the front yard setback shall be permitted per 150 linear feet of road frontage. The size of the pad shall accommodate not more than one vehicle, watercraft or trailer. Such pad may be elevated, but no more than three feet in height as measured from grade to the highest point.

(15) *Vehicle repair.*

- a. Outside storage or repair work is not allowed.
- b. Body work and spray painting must be confined to properly ventilated indoor bays that shall be closed from the outdoors during use.
- c. Sales of new and used motor vehicle parts are allowed as an incidental use to the repair shop however, no outside storage of product is allowed.
- d. Service bay doors shall be located only on a side or rear facade.
- e. All storage for impounded vehicles, and the storage of vehicles that are inoperable or disabled vehicles for periods greater than one week, shall be located within a permanent storage area that complies with this chapter.
- f. Parking for vehicles to be serviced, and that have been serviced, shall occur on the site.
- g. There shall be no on-site dismantling of vehicles for salvage.
- h. Major vehicle service shall be set back no less than 150 feet from any residential zoning district.

(16) *Service stations.*

- a. The minimum public street frontage shall be 135 feet on each public street for all new fueling stations.
- b. The minimum width for driveways shall be 35 feet. The width shall be expanded to 45 feet whenever the driveway accesses a street with a width of, or with a planned ultimate width of, 84 feet or greater. Driveways shall be no closer than 150 feet from the nearest intersecting point of street right-of-way lines, or as otherwise determined by the public works director.
- c. Structures shall observe the height limits of the underlying zoning district, except that canopies constructed over pump islands located outside the buildable area of the lot shall not exceed a maximum height of 17 feet.
- d. A fuel pump canopy shall utilize the same architectural design and materials as the principal building(s) on the lot.
- e. Light fixtures mounted under canopies shall be cut-off and shielded so that there is no glare or light spillage at the property line. Lights and fixtures shall not extend below the surface of the ceiling of the canopy.
- f. Lights shall not be mounted on the top or sides (fascias) of the canopy, and shall not be externally illuminated except as part of an internally illuminated sign that meets the standards of this chapter.

(17) *Accessory automatic car wash.* An automatic car wash shall be subject to the following:

- a. The structure shall be completely enclosed except for vehicle ingress and egress.
- b. The structure shall not exceed a height of 20 feet, or exceed an overall building dimension of 25 feet in width and 50 feet in length.

- c. The structure shall be constructed of building materials consistent with that of the principal building, including the roof.
- d. The hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m. when located adjacent to any residential zoning district.

(18) *Electric vehicle charging stations.*

- a. *Classifications.* An electric vehicle charging station is a public or private parking space(s) that is (are) served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle, and is classified based on the following levels:
 - (i) Level 1 is considered slow charging, and operates on a 15 to 20 amp breaker on a 120-volt AC circuit.
 - (ii) Level 2 is considered medium charging, and operated on a 40 to 100 amp breaker on a 240-volt AC circuit.
 - (iii) Level 3 is considered fast or rapid charging, and operated on a 60 amp or higher breaker on a 480-volt or higher three-phase circuit with special grounding equipment. Level 3 stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.
- b. *Where permitted.*
 - (i) Level 1 and 2 electric vehicle charging stations are a permitted use in all zoning districts.
 - (ii) Level 3 electric vehicle charging stations are a permitted use in all zoning districts.
 - (iii) Battery exchange stations are permitted in the CC and I Zoning Districts.
- c. *Standards.*
 - (i) Electric vehicle charging stations utilizing parking stalls located in a parking lot, parking garage or in on-street parking spaces shall comply with the following standards. Due to the fact the technology associated with electric vehicles, batteries and electric vehicle charging stations is relatively new and is anticipated to change, and that there is a lack of municipal experience on consumer and community preferences and attitudes with regard to electric vehicles, the planning and development director may authorize variations from these standards, so long as the intent and goal of the standards and this section are addressed.
 - (ii) Except when located in conjunction with single-family residences, electric vehicle charging stations shall be reserved for parking and charging of electric vehicles only.
 - (iii) *Signage.* Each electric vehicle charging station shall be posted with signage indicating the space is only for electric vehicle charging purposes. Way-finding signs conveniently located to guide motorists to the charging stations are permitted with approval of the planning and development director.
 - (iv) Accessible charging stations shall be located in proximity to the buildings or facility entrances, and shall be connected to a barrier-free accessible route of travel.
 - (v) Equipment mounted on pedestals, lighting posts, bollards, or other devices for on-street charging station shall be designed and located as to not impede pedestrian travel or create trip hazards within the right-of-way.

- (vi) Charging station outlets and connectors shall be no less than 36 inches or no higher than 48 inches from the top of the surface where mounted, and shall contain a retraction device or a place to hang cords and connectors above the ground surface.
 - (vii) Equipment shall be protected by wheel stops or concrete-filled bollards.
- d. *Notification.* The following information shall be posted at all electric vehicle charging stations:
- (i) Hour of operations if time limits or tow-away provisions are to be enforced by the property owner;
 - (ii) Usage fees, if applicable; and
 - (iii) Contact information for reporting when the equipment is not operating or other problems.
- (19) *Truck stop/travel plaza.*
- a. *Minimum parcel size* shall be ten acres subject to the following requirements:
 - (i) The primary parcel of the truck stop shall be not more than 500 feet from the right-of-way limits surrounding a freeway or expressway intersection, with at least 200 feet of direct frontage along the arterial to the property boundary of the primary parcel;
 - (ii) No more than one truck stop shall have primary access from any freeway or expressway intersection; and
 - (iii) The minimum distance between truck stops shall be 7,000 feet, measured from property line to property line.
 - b. *Fuel.*
 - (i) Any fuel dispenser, perimeter of underground storage tanks or pumps shall be a minimum of 100 feet from any residential zoning district, and at least 40 feet from any property line or public right-of-way line.
 - (ii) Fueling areas for automobiles and fueling areas for trucks must be separated. Pump island canopies shall not exceed 22 feet in height.
 - c. *Site design.*
 - (i) A 15-foot wide landscaped buffer area shall be provided along all property lines. There shall be no parking permitted within this landscaped buffer area.
 - (ii) A masonry sound attenuation wall at least six feet tall shall be installed along all property lines that abut or are adjacent to a residential zoning district or use.
 - (iii) Subsidiary business activities may include scales, truck wash, tire repair and sales, barber shop, bar, restaurant, showers, convenience store, truckers lounge, mini-theater, laundry and gasoline and propane dispensing.

Subsidiary business uses at truck stops shall comply with the following standards:

 - (a) All activities and operations shall be conducted entirely within an enclosed structure, except the dispensing of petroleum products, water and air from pump islands and the provision of emergency service of a minor nature;
 - (b) A truck wash shall be designed with a water collection and recycling system;
 - (c) Vehicle service areas shall be completely enclosed;
 - (d) Service bays shall not open toward public rights-of-way; and
 - (e) A minimum of four showers shall be provided at truck stops with more than 100 truck parking spaces.

- d. Overnight parking is not allowed unless electrified parking spaces (EPS), also known as truck stop electrification, is installed for each overnight space to allow truck drivers to provide power to necessary systems such as heating, air conditioning, or appliances, without idling the engine.
- e. A plan must be submitted showing how the truck stop/travel plaza is designed to prevent any spill from the facility, or from vehicles utilizing the facility, from contaminating soil or migrating off-site. The facility shall fully comply with all federal and state regulations regarding the reporting and containment of spills and releases of petroleum and hazardous substances.

(f) *Industrial uses.*

- (1) *General.* All industrial uses shall be subject to the following standards:
 - a. All traffic hazards shall be minimized;
 - b. Lights shall be directed away from adjoining residential areas;
 - c. Off-street loading areas shall be available as needed; and
 - d. No dust, smoke, fumes, gas, noxious odor, excessive noise or other atmospheric effluent shall exceed in intensity past the boundary of the lot.
 - e. The operations shall not cause the dissemination of vibration or noise in excess of the maximum environmental noise level established by city Code of Ordinances chapter 58, article VII, section 262 or other restrictions as contained in chapter 94 as it relates to specific industrial uses.
 - f. A minimum setback of 50 feet shall be required for all structures (except fences and walls) located on the subject property measured from the subject property lines to the property lines in question.
 - g. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet above the grade.
 - h. All utility lines serving the site and located on the subject property, shall be contained underground.
 - i. All parking areas, drive aisles, service areas, storage, and loading docks shall be constructed of a hard surface (i.e., asphalt/concrete), conforming to the Branson Municipal Code requirements.
 - j. Testing of generators is prohibited between the hours of 11:00 p.m. and 7:00 a.m. If generators are located outside of an enclosed building a screening wall shall be required.
 - k. The SPL attributable to infrastructure of the industrial use on the property shall not exceed 65 dBC, as measured at every property line. For industrial uses located within 500 feet of any allowed residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, nightly rental, and timeshare unit), and educational facilities, the SPL attributable to the facility shall not exceed 55 dBC at every property line.
- (2) *Wrecker service.*
 - a. The use shall be located at least 250 feet from any residential district, school or child care center.
 - b. Vehicles shall not be stored on-site for more than 90 days.
 - c. Vehicles shall be stored to the rear of the principal structure, and screened in accordance with this chapter.

- d. The storage area shall be located totally within an enclosed building, or shall be enclosed by an architecturally designed solid fence of at least six feet in height.
 - e. There shall be no dismantling of vehicles on the premises to obtain parts for use or sale.
- (3) *Welding and automobile body shop.* Welding and automobile body shop uses shall comply with the following standards:
- a. The use shall be located at least 250 feet from any residential district, school (except vocational schools) or child care center.
 - b. Vehicles shall not be parked or stored as a source of parts, or for the purpose of sale or lease/rent.
 - c. Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind, or to the side of the principal structure, and screened in accordance with this chapter.
 - d. Vehicles that are repaired, and are awaiting removal, shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30-day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.
- (4) *Heavy manufacturing.*
- a. Heavy manufacturing uses shall be located at least 1,000 feet from any residential district.
 - b. A perimeter buffer of at least 25 feet in depth shall be provided along any boundary with another property not zoned for heavy industry.
- (5) *Freight terminal and warehouse.*
- a. The use shall be located at least 500 feet from any residential district, school or child care center.
 - b. The use shall not locate storage areas within a required setback or perimeter buffer.
 - c. The use shall have direct access onto a major arterial or collector street.
- (6) *Self-storage.*
- a. *Site layout.*
 - (i) The minimum lot area shall be three acres.
 - (ii) If separate buildings are constructed, there shall be a minimum separation of ten feet between buildings.
 - b. *Operation.*
 - (i) The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.
 - (ii) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

(iii) No more than one security or caretaker quarters may be developed on the site, and shall be integrated into the building's design. Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

(iv) Hours of public access to a self-storage use abutting a residential zoning district or existing residential use shall be restricted to the hours between 6:00 a.m. and 10:00 p.m.

c. *Parking and circulation.*

(i) Interior parking shall be provided in the form of aisleways adjacent to the storage bays. Aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of aisleways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.

(ii) The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

(iii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

(iv) All access ways shall be paved with asphalt, concrete, or comparable paving materials.

d. *Building appearance.*

(i) Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

(ii) With the exception of a structure used as a security guard or caretaker quarters, or the redevelopment of an existing structure, the maximum height of a self-service storage facility shall be 20 feet.

(iii) Windows may not exceed 20 percent of any street-facing facade, and shall not be reflective.

e. *Open storage.* Open storage of recreational vehicles, travel trailers and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:

(i) The storage shall occur only within a designated area, which shall be clearly delineated;

(ii) The size of the storage area shall not exceed 25 percent of the buildable area of the site;

(iii) Outdoor storage areas shall be located to the rear of the principal structure;

(iv) Storage shall not occur within the areas set aside for minimum building setbacks; and

(v) No dry stacking of boats shall be permitted on-site.

(g) *Agricultural uses.*

(1) *Agritainment.*

a. Shall be operated and maintained by the owner, operator, or occupant of the farm on which it is located. Multiple properties in common ownership are acceptable for agritainment as long as they are considered a single farm entity.

- b. Shall only be permitted in conjunction with agriculture support and services directly associated with on-going agricultural activity on-site.
- (2) *Animal raising.*
 - a. The minimum tract or parcel size shall be five acres.
- (3) *Crop raising.*
 - a. Shall not occur within the front yard area.
- (4) *Commercial livestock.*
 - a. The minimum tract or parcel size shall be 20 acres.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0027, § 2, 3-12-2019; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2019-0107, § 2, 8-27-2019; Ord. No. 2019-0212, § 2, 12-10-2019; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2020-0155, § 2, 11-10-2020; Ord. No. 2021-0025, § 2, 3-9-2021; Ord. No. 2023-0074, § 2, 7-11-2023; Ord. No. 2024-0053, § 2, 6-11-2024; Ord. No. 2024-0061, § 2, 7-9-2024; Ord. No. 2024-0071, § 2, 8-13-2024; Ord. No. 2024-0086, § 2, 10-8-2024)

Sec. 94-62. Special use standards.

- (a) *Residential uses.*
 - (1) *Home occupation requiring a special use permit.*
 - a. A special use permit for a home occupation that is not permitted through the use registration process identified in the use and structure standards section may be approved only when the applicant can show that the activity will be incidental and subordinate to the residential purpose of the property, will comply with the spirit and intent of these regulations, will not create adverse impacts on adjacent properties, and will be compatible with the residential character of the area.
 - b. The approval of a special use permit may authorize minor modifications, alternative limitations, or special conditions that are applicable to the home occupation standards of operation identified in the use and structure standards section where it is determined that the home occupation can be accommodated in accordance with the spirit and intent of this section.
 - c. The following types of uses will not be approved as home occupations unless unusual or special circumstances exist as determined through the special use permit review process:
 - (i) Uses involving regular client visits, such as photographic studios, small appliance repair shops, barber/beauty shops, medical offices, etc.;
 - (ii) Uses involving large goods or materials, such as upholstery or furniture repair, arts/crafts other than small items, etc.;
 - (iii) Uses involving nuisances (noise, dust, etc.) or which cannot be conducted within a totally enclosed structure, such as automobile, lawn mower, or other engine repair, welding or machine shops, etc.;
 - (iv) Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants, etc.;
 - (v) Uses involving handling or storage of quantities of goods or materials, such as retail/wholesale operations or manufacturing/assembly;
 - (vi) Uses involving the training, grooming, breeding, or boarding of animals.

(2) *Mobile home community.*

- a. *Purpose and intent.* The intent of the mobile home community standards is to provide for the orderly and unified planning and development of mobile home communities, to ensure the provision of facilities and amenities appropriate to the needs of residents of mobile home communities, and to ensure a harmonious relationship between mobile home communities and adjoining land uses.
- b. *Special use permit.* Mobile home communities may be permitted in the HDR District through the approval of a special use permit.
- c. *Permitted uses.* No building, structure or land shall be used, and no building or structure shall be hereafter erected or structurally altered, unless otherwise provided for in this section, except for one or more of the following uses:
 - (i) Single-family mobile and manufactured homes.
 - (ii) Recreation areas and facilities.
 - (iii) Accessory buildings typically found with the above permitted uses.
 - (iv) Public utility facilities, excluding repair, storage and business facilities.
- d. *Prohibited uses.* The following uses are expressly prohibited in any mobile home community:
 - (i) Timeshare operation.
 - (ii) Nightly or weekly rentals of any nature.
 - (iii) Commercial uses.
- e. *Design standards.* The following standards shall be incorporated in the design of the mobile home community:
 - (i) The gross density shall not exceed seven units per acre, unless part of an approved plan which includes other land uses.
 - (ii) The minimum parcel size shall be 3,200 square feet.
 - (iii) The minimum parcel width shall be 40 feet.
 - (iv) The minimum separation between mobile homes shall be ten feet.
 - (v) There shall be no private streets. All streets in the mobile home community shall be public streets dedicated to the city.
 - (vi) The minimum setback from a mobile home unit to a boundary that is not a street shall be 20 feet. The minimum setback from a mobile home unit to a boundary that is adjacent to a public street shall be 25 feet.
 - (vii) A minimum of two off-street parking spaces per mobile home site, plus one guest space for each five sites, all in conformance with the parking requirements of this chapter, shall be provided in the mobile home community. Uses other than mobile home sites shall be subject to the parking regulations included in this chapter.
 - (viii) A minimum street width of 28 feet paved from back of curb to back of curb shall be required on all streets within the mobile home community. All street construction shall be in strict conformance with the city standards and specifications for residential streets, with the exception that the minimum right-of-way width may be reduced from 50 feet to 40 feet when a five-foot utility easement is provided along each side of the right-of-way.
 - (ix) A minimum of two accesses to a dedicated street shall be provided per mobile home community.

- (x) A minimum of 0.3 footcandle lighting shall be provided on all driveways and walks.
- (xi) Sidewalks shall be provided adjacent to all streets, on both sides of the street, shall be a minimum width of four feet, and shall be constructed in conformance with city standards and specifications for sidewalk construction.
- (xii) A minimum of 15 percent of the gross area of the mobile home community shall be provided as park area.
- (xiii) A minimum of 30 percent of the gross area of each mobile home parcel shall be provided as usable livability open space.
- (xiv) A clubhouse and/or other common recreation facilities shall be provided in accordance with plans submitted for review and recommendation by the planning commission and review and approval by the board.
- (xv) All mobile homes shall have tie-downs in accordance with applicable provisions of this chapter and the state.
- (xvi) Plans and specifications shall be submitted and permits issued in accordance with all city building or HUD regulations depending upon the date of construction of the unit(s).
- (xvii) A landscaping plan shall be submitted for review and approval by the planning and development director with a formal report attached to the submittal for mobile home community.
- (xviii) No building or structure hereafter erected or structurally altered in a mobile home community shall exceed 35 feet in height, or two stories above the foundation or basement ceiling level.
- (xix) When adjacent to, or across the street from a residential use other than a mobile home park, or when required by the board due to location, 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 mobile home community from view.
- (xx) Storage units shall be designed as an integral part of the site and shall be screened. Setback requirements specified in this chapter shall apply to storage units.
- (xxi) All electrical, gas and telephone utilities shall be placed underground in accordance with city standards. Provisions shall be made to provide sewer and water service to each mobile home in a manner which shall conform to all governing regulations, including the city technical specifications. Adequate fire protection shall be provided by installing fire hydrants which conform to all governing regulations, including the city technical specifications.
- (xxii) Trash and recycle collection receptacles shall be provided and properly screened from view.
- (xxiii) Provisions shall be made for off-street camper and boat storage either adjacent to the mobile homes or in a central location or locations. One hundred square feet shall be provided for each mobile home site. Covenants or other binding restrictions prohibiting said storage may be provided in lieu of said storage space.
- (xxiv) Provisions to maintain and manage all common facilities shall be submitted for approval by the planning commission and board.
- (xxv) Adequate stormwater control is required per city technical specifications.

f. *Additional requirements.*

- (i) The overnight housing and occupancy of travel trailers, motor homes, truck campers, recreation vehicles, tents and houseboats within a mobile home community is prohibited.
- (ii) Bonding, or some guarantee in a form acceptable to the city attorney may be required to guarantee performance for the construction of the site improvements.
- (iii) If, in the process of reviewing the application for the mobile home community, the planning commission or the board deem it necessary to apply other conditions of approval more restrictive than those outlined herein, such conditions may be required to make the use more compatible with either the existing or proposed environment.
- (iv) Unless specifically approved elsewhere in this chapter, the parking of a mobile home on a parcel not located within a mobile home community is prohibited.
- (v) Application procedures shall conform to the procedures defined in the subdivision regulations of the city.
- (vi) Any communal swimming pool, clubhouse, bathhouse, or other public place within the mobile home community district boundaries shall meet the city and state health codes, rules and regulations.

(b) *Commercial uses.*

(1) *Food truck court.*

- a. Site plan approval is required for the establishment of a food truck court. In addition to the standard site plan requirements, the application shall also identify: the location and orientation of each food truck; the location of any seating areas, restrooms, parking, landscaping, trash enclosures, and utilities; the circulation of all pedestrian and vehicular traffic on the site; and the location and type of water supply and electrical outlets provided to each food truck site.
- b. Shall contain a minimum of four and a maximum of 12 food trucks.
- c. All components shall comply with the underlying zoning district setbacks.
- d. Food trucks shall be parked so as to require patrons to walk up to the vending window. Vendors shall not position the food truck to act as a drive-thru business nor solicit business from pedestrians on public property or persons in vehicles.
- e. The sale of alcoholic beverages from a food truck is prohibited.
- f. Seating shall be provided at a minimum rate of six seats per food truck.
- g. Permanent restroom facilities shall be provided and shall be required based on the requirements of this Code.
- h. A minimum of two tie-down anchors with concrete footings shall be provided for each food truck.
- i. Trucks requiring kitchen exhaust hoods shall be equipped with automatic fire suppression.
- j. A 1,000-gallon grease interceptor shall be provided for each four food trucks in compliance with city's fats, oils and grease management program.
- k. Proper waste, water and power connections based on the requirements of this Code for each food truck shall be provided in precast concrete vaults, with traffic worthy lids.

- l. Shall provide one trash receptacle and one recycling receptacle for each food truck in a convenient location which does not impede pedestrian or vehicular traffic. Additionally, a trash enclosure shall be provided as required per this chapter.
 - m. Signage located on or inside a food truck shall be allowed. All signs must be secured and mounted against the food truck, and may not project more than six inches from the exterior of the food truck. One temporary A-frame sign, as regulated in this chapter, shall be permitted per food truck, to be displayed within ten feet of the truck.
- (2) *Adult entertainment.*
- a. The following uses of property are considered adult entertainment activities, and may be located only in districts zoned D as a special use: adult bookstore, adult entertainment facility, bathhouse, massage establishment, modeling studio.
 - b. No adult bookstore, adult entertainment facility, bathhouse, massage establishment or modeling studio shall be permitted within 600 feet of any religious institution, school, or public park, or any property zoned for residential use. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment establishment to the closest property line of the religious institution, school, or public park, or the property zoned for residential use.
 - c. No adult entertainment establishment shall be allowed to locate or expand within 600 feet of any other adult entertainment use or of any business licensed to sell or serve alcoholic beverages whether or not such business is also an adult entertainment establishment as defined in this article. The distance between any two adult entertainment establishments or between an adult entertainment establishment and a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.
 - d. All access to and from the adult entertainment establishment shall be provided from a street classified as a thoroughfare.
 - e. The property on which such use is located shall have a minimum of 100 feet of street frontage.
 - f. The property on which the use is located shall be screened by solid masonry wall, at least six feet in height along all interior property lines.
 - g. The facility on which the use is located, and the parking for such facility, shall have a front yard setback of 20 feet, a side yard setback of ten feet, and a rear yard setback of ten feet.
 - h. The facility in which the use is located shall be designed in such a fashion that all openings, entries and windows prevent view into such facilities from any pedestrian sidewalk, walkway, street or other public area. No adult entertainment activity shall take place partially or totally outside the adult entertainment establishment.
 - i. The facility in which such a use is located shall be limited to one wall-mounted sign no greater than one square foot of sign per linear foot of wall length, not to exceed a total of 50 square feet; said signs shall not flash, blink or move by mechanical means and shall not extend above the roofline of the building. Further, no merchandise or pictures of products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted.

- j. Lighting in the parking area must provide a minimum light level of 0.25 footcandle over the entire parking area, but in no point shall the light level exceed 3.0 footcandles, nor shall any increase in light levels or visible glare be permitted at the parcel line.
- k. The hours of operation will not exceed 8:00 a.m. to 12:00 midnight on Sunday through Thursday; and 8:00 a.m. to 1:00 a.m. on Friday and Saturday.

(3) *Drag shows.*

- a. No drag show or drag show establishment shall allow minors to attend the performance. If the drag show occurs at an establishment with an alcohol license, the establishment must comply with the age restrictions for employees and patrons as described in chapter 6, Alcoholic Beverages.
- b. No drag show shall be permitted within 600 feet of any religious institution, school, or public park, or any property zoned for residential use. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the establishment holding a drag show to the closest property line of the religious institution, school, or public park, or the property zoned for residential use.
- c. No drag show establishment shall be allowed to locate or expand within 600 feet of any other drag show establishment or of any business licensed to sell or serve alcoholic beverages, whether or not such business is also a drag show establishment as defined in this article. The distance between any two drag show establishments or between a drag show establishment or between a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.
- d. All access to and from the establishment holding a drag show shall be provided from a street classified as a thoroughfare.
- e. The property on which such use is located shall have a minimum of 100 feet of street frontage.
- f. The property on which the use is located shall be screened by a solid masonry wall, at least six feet in height along all interior property lines. Such wall may include the building walls where no yard exists.
- g. The facility in which the use is located, and the parking for such facility, shall have a front yard setback of 20 feet, a side yard setback of ten feet, and a rear yard setback of ten feet.
- h. The facility in which the use is located shall be designed in such a fashion that all openings, entries, and windows prevent view into such facilities from any pedestrian sidewalk, walkway, street or other public area. No drag show activities shall take place partially or totally outside the establishment.
- i. The facility in which such a use is located shall be limited to one wall-mounted sign no greater than one square foot of sign per linear foot of wall length, not to exceed a total of 50 square feet; said signs shall not flash, blink or move by mechanical means and shall not extend above the roofline of the building. Further, no merchandise or pictures of products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted.
- j. Lighting in the parking area must provide a minimum light level of 0.25 footcandle over the entire parking area, but in no point shall the light level exceed 3.0 footcandles, nor shall any increase in light levels or visible glare be permitted at the parcel line.

- k. The hours of operation will not exceed 8:00 a.m. to 12:00 midnight on Sunday through Thursday; and 8:00 a.m. to 1:00 a.m. on Friday and Saturday.

(c) *Industrial uses.*

- (1) *Outdoor storage.* Any such goods kept outside which are not within the definition or limitations for incidental outdoor display, or outdoor display lots, shall be regarded as outdoor storage. Outdoor storage shall include the parking/storage of vehicles to be serviced at a collision service or towing/wrecker service use and all parking/storage of vehicular equipment, such as farm or construction machinery or equipment and commercial delivery vehicles. The placement of storage vaults or shipping containers shall be regarded as outside storage, except as may be otherwise permitted herein.
- a. *Primary outdoor storage yard.* Primary outdoor storage yards shall be permitted with a special use permit in the CC, B, and I Districts. A primary outdoor storage yard shall mean storage that: (1) constitutes a principal use on the premises or is conducted without a permanent building on the premises; (2) utilizes more than 33 percent of the premises; or (3) otherwise exceeds the limitation of an accessory storage area. Modification of the conditions set out below may be specified as part of the approval of a special use permit, if noted on the application and required notification, when it is determined that the storage can be accommodated in a modified manner without adverse impacts on adjacent properties and that such storage will still meet the general intent of the limitations.
- b. *Commercial/utility vehicles.* Regular parking for commercial and utility vehicles shall be located in service areas that are designed as follows and screened as necessary to meet these standards:
- (i) All service areas shall be placed at the rear, on the side of, or inside buildings.
- (ii) No service area shall be visible from a public right-of-way or from adjacent residential areas.
- (iii) Service areas and access drives shall be located so they do not interfere with the normal activities of building occupants or visitors on driveways, walkways, in parking areas or at entries.
- c. *Required conditions.* All outdoor storage, including outdoor storage as an accessory use, shall comply with the following conditions:
- (i) *Type of materials:* Storage shall be limited to goods and materials customarily stored outside and resistant to damage and deterioration from exposure to the elements.
- (ii) *Location:* Outdoor storage shall not be located in any required front or exterior side yard; shall not obstruct or eliminate any required parking or loading space, access drive or fire lane; or occupy any street right-of-way.
- (iii) *Height:* Storage of stacked materials shall not exceed the height of the screening fence or eight feet, whichever is less. Individual items of greater height may be stored, but may not exceed one-half the height of the principal building.
- (iv) *Screening:* All outdoor storage shall be screened by a permanently maintained solid fence at least six feet in height along any side facing a front or exterior side property line, any side facing a rear or interior side property line which is adjacent to a district which does not allow outdoor storage as a permitted use, or any other side generally open to public view. Fencing for this purpose shall be designed of wood or masonry, provided that chain link with slat inserts may be used if all openings are blocked by slats having a width which is no less than one-fourth-inch smaller than the width of the opening.

- (v) *Surfacing:* Storage areas shall be surfaced as follows:
1. Storage of goods and materials shall be conducted only on a paved surface or an approved all-weather surface of crushed rock which is maintained in a dust-free condition.
 2. The storage of vehicles, trailers, and equipment which is normally intended to be mobile, whether self-propelled or towed, shall be conducted only on an approved asphalt or concrete surface which is provided in accordance with the requirements for parking areas.

(2) *Data centers.*

- a. *Data centers.* Data centers may be permitted with a special use permit in the Industrial (I) zoning district, or as further determined through a planned development (PD) approval. Modification of the conditions set out below may be specified as part of the approval of a special use permit, if noted on the application and required notification, when it is determined that the data center can be accommodated in a modified manner without adverse impacts on adjacent properties and that such data center will still meet the general intent of the limitations.
- b. *Required conditions.* All data centers shall comply with the following conditions:
- c. *Site requirements:*
 - (i) *Primary structure:* A primary structure shall be required prior to the installation of a MENU. A primary structure excludes structures such as storage sheds, non-occupied secondary or accessory structures, and MENUs.
 - (ii) *Buffering:* A minimum setback of 50 feet shall be required for all structures (except fences and walls) located on the subject property measured from the subject property lines to the property lines in question.
 - (iii) *Distancing requirements for residential, places of worship, daycares, parks, lodging establishments, and educational facilities:* Data centers shall require a minimum 500 feet distance setback from a residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, short-term rental, and timeshare unit) and educational facilities measured from the subject property lines to the property line in question.
 - (iv) *Lighting:* A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixtures shall be required. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet above the grade.
 - (v) *Manufactured engineered non-residential unit (MENU):* MENUs shall be screened from view by a combination of landscaping, opaque fencing, and or a decorative opaque wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the MENU being screened. Chain link fencing is not permitted as a screening method. On a case by case basis, a line-of-sight analysis can be submitted to assess the visual impact of the MENU on the surrounding environment. The line-of-sight analysis can consider, but not be limited to: terrain, obstructions, vegetation, buildings, and other objects.
 - (vi) All utility lines serving the site and located on the subject property, shall be contained underground.
 - (vii) All data centers shall be contained within a primary structure or a MENU.

(viii) All parking areas, drive aisles, service areas, storage, and loading docks shall be constructed of a hard surface (i.e., asphalt/concrete), conforming to the Branson Municipal Code requirements.

d. *Sound/noise requirements:*

(i) *On-site monitoring of sound:* The permit holder shall provide to the city, prior to the issuance of a certificate of occupancy or completion, an affidavit that includes the following information:

1. Name and qualifications of the person who measured the sound pressure levels, requiring a supervised and wet stamped report by a qualified Missouri licensed professional engineer.
2. Equipment used. List all test results; equipment; equipment serial numbers; equipment settings; copies of National Institute of Standards (NIST) traceable calibration certificates; drawings and pictures of the test setup including pertinent distance measurements; and weather conditions during the tests including wind speed, temperature and relative humidity.
3. Location of the noise measurements depicted on a scaled site plan. The points of measurement shall be at all property lines and generally at the points on those property lines most susceptible to noise from the applicable equipment.
4. Sound pressure levels (SPL) at each property line.
5. Time and duration of measurements.
6. A statement attesting to the accuracy of the information provided and a guarantee that the permit holder will not run their equipment, including generators, at a greater sound pressure level than when the measurements were made.

The city reserves the right to require independent verification of noise measurements and/or to request additional measurements at different point on the property. All measurements must comply with the noise levels established in this section of Branson Municipal Code.

(ii) *Generators:*

1. Testing of generators is prohibited between the hours of 11:00 p.m. and 7:00 a.m.
2. If generators are located outside of an enclosed building a screening wall shall be required.

(iii) The SPL attributable to infrastructure of the data center property shall not exceed 65 dBC, as measured at all data center property line. For data centers located within 500 feet of any allowed residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, short-term rental, and timeshare unit), and educational facilities, the SPL attributable to the facility shall not exceed 55 dBC at all data center property line.

(iv) If at any time the data center operation violates the standards as set forth in this section, the planning and development director shall give five days' notice in writing to the owner of the building, structure, or property on which the violation is located, stating the nature of the violation and ordering the owner to cease the violation or bring the property into compliance. Notice to the owner may be by first class mail, personal delivery, or posting on the property. Notice given shall state the violation of the standards and the time within which the violation must be abated. A notice of

violation and order to abate under this article may be appealed by filing a written appeal in the office of the planning and development director within five calendar days of the violation notice. The board of adjustment shall hear the appeal in accordance with its usual procedure. The board of adjustment, upon finding that a violation exists, may approve or modify the order of the planning and development director. The board of adjustment's decision may be appealed in the manner provided by law.

e. *Utilities and resources conditions:*

- (i) *Confirmation of utility agreement:* Prior to approval of a special use permit, the applicant shall provide written verification from the utility provider stating the following:
 1. Adequate capacity is available on the applicable supply lines and substation to ensure that the capacity availability to serve the other needs of the planning area is consistent with the normal projected load growth envisioned by the utility.
 2. Utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed use.
 3. The use will not cause electrical interference or abnormal in line voltage on and off the operating premises.
 4. An agreement that if a power outage or shortage occurs, the data center will be secondary to all other uses within the City of Branson or surrounding properties.
- (ii) *Confirmation of water availability:* If water is used for cooling, the source and adequacy of the supply shall be provided.
- (iii) *Changes in resources or data center expansion:* If a change in resource occurs, a new special use permit shall be required for re-evaluation. If a data center expansion is proposed, a new special use permit shall be required for re-evaluation.
- (iv) Certain foreign adversaries shall be restricted from developing data centers within the City of Branson. The determination of a foreign adversary shall be regulated on a case by case basis, as determined by the United States Department of State.
- (v) All requirements relating to noise and noise disturbance shall be considered for data centers.

f. *Modification of use:* Any modification to the data center site requirements; number of MUNU, location of MENU, screening, lighting, sound/noise requirements, and utilities requires an application for the special use permit.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2018-0068, § 2, 7-10-2018; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2023-0081, § 2, 8-8-2023; Ord. No. 2024-0071, § 2, 8-13-2024; Ord. No. 2024-0086, § 2, 10-8-2024)

Sec. 94-63. Accessory use standards.

(a) *Purpose.* This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses, provided that the accessory use complies with all applicable standards in this section.

(b) *Approval of accessory uses and structures.* All principal uses allowed in a zoning district shall be deemed to include those accessory uses, structures and activities typically associated with the use, unless specifically prohibited in this chapter. No accessory use may be established prior to

establishment of the principal use with which such accessory use is associated. All accessory uses shall be subject to the standards in this section, as well as any use-specific standards applicable to the associated principal use as set forth in this chapter.

(c) *Interpretation of unidentified accessory uses and structures.* The planning and development director shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis, based on the following standards:

- (1) The definition of "accessory use" in this chapter, and the general accessory use standards and limitations established in this section;
- (2) The purpose and intent of the district in which the accessory use is located;
- (3) Potential adverse impacts the accessory use or structure may have on other lots, compared with other accessory uses permitted in the district; and
- (4) The compatibility of the accessory use with other principal and accessory uses permitted in the district.

(d) *General standards.* All accessory uses and structures shall comply with the following general standards:

- (1) *Compliance with this chapter.*
 - a. All accessory uses and structures shall be subject to the dimensional requirements of the zone district in which they are located. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this chapter, the more restrictive standards shall control.
 - b. Accessory uses shall comply with all standards of this chapter applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use.
- (2) *Location.* The accessory use or structure shall be conducted or located on the same lot(s) as the principal use, and to the rear of the primary structure, unless otherwise approved by the planning and development director. No accessory structure shall be located within ten feet of the site's principal structure unless otherwise specified in this chapter. When located to the rear of the primary structure, accessory buildings need not comply with the side or rear setback lines applicable to the primary structure, provided that the accessory building is not located closer than ten feet from any alley and not closer than five feet from any property line.
- (3) *Size and quantity.* The maximum total size of accessory structures within any residential district shall be 800 square feet unless approved by special use permit. No accessory structure shall exceed the height of the site's principal structure unless otherwise specified in this chapter.
- (4) *Same utility meter required.* The principal use and the accessory use shall utilize the same utility meter, with the exception of approved on-site employee housing.
- (5) *Nonresidential uses in residential districts.* Accessory structures in residential districts shall not be used to conduct a retail business, commercial business or repair business.

(e) *Standards applicable to specific accessory uses.* Note: The standards in this section are listed alphabetically by use; they do not follow the organization of the use table.

(1) *Amusement parlor/arcade.*

- a. There shall be no outdoor advertising or signing of the accessory use.
- b. The floor area devoted to the accessory use shall not impinge or obstruct normal pedestrian traffic within the building, and shall not exceed 20 percent of the public floor area of the primary business.
- c. No additional parking shall be required.

(2) *Community garden.* Hoop houses, cold frames or other accessory structures used solely for growing plants are permitted, and are exempt from the maximum floor area of all accessory structures, provided that the total size of such temporary structures does not exceed 1,000 square feet or 15 percent of the lot area, or whichever is greater, and that it is a temporary structure. A temporary use permit is not needed for accessory community garden structures.

(3) *Eating and drinking.*

- a. *Outdoor seating, on-site.* Eating and drinking establishments allowed under this Code may provide outdoor seating areas, including rooftop seating, for customers following design review and issuance of a liquor license where applicable. The approval of outdoor seating shall be reviewed against the following criteria:

- (i) Outdoor customer seating areas are subject to all applicable building setback requirements, except within the Entertainment District, and must abut the building wall or roof area of the principal building;
- (ii) Outdoor seating areas may not occupy required parking spaces or parking area access aisles;
- (iii) An outdoor seating area exceeding ten percent of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements; and
- (iv) When outdoor seating is located on a lot abutting a residential district, noise emanating from any outdoor seating areas may not exceed 65 db(A), as measured long the common lot line at the top of the required screening wall or fence;
- (v) In approving outdoor seating, the planning and development director or planning commission may impose reasonable conditions relating to location, configuration, lighting and other operational features of the use to ensure compatibility with surrounding uses, maintenance, sound and compliance with other applicable city codes.

- b. *Sidewalk café.* May be permitted under the following conditions:

- (i) The area of occupancy must be abutting and contiguous to the restaurant in which food preparation, sanitation and related services for the sidewalk café will be performed.
- (ii) A sidewalk café may not be enclosed by fixed walls, unless such walls are necessary to comply with requirements to serve alcohol, and shall be open to the air, except that it may have a canopy.
- (iii) There shall be unimpeded sidewalk remaining for pedestrian flow from the face of the curb and the area of temporary occupancy.
- (iv) The sidewalk café shall be located a minimum of five feet from driveway and alleys, and ten feet from intersections.

- (v) All curbs, alleys, sidewalks and public rights-of-way adjacent to such occupation shall be kept in a clean and orderly condition.
- (4) *Off-premises contacts (OPC).*
- a. Shall be located inside a building of the principal use, and no larger than 100 square feet of floor area.
- (5) *On-site employee housing.* An on-site employee housing unit for a commercial or industrial business is an accessory use located on the same property as the commercial or industrial business, which is used to house persons employed by the owner of that business. On-site employee housing units for commercial and industrial businesses are permitted in the CC, ENT and B Districts. These on-site employee housing units can either be incorporated into a commercial or industrial building, or located in a separate, freestanding structure on the same property as the primary structure.
- (6) *Outdoor storage.* Accessory outdoor storage may be permitted with a special use permit in the CC, B and I Districts. Accessory outdoor storage shall mean storage that is accessory to a lawful business in a permanent building on the premises that is conducted in accordance with the limitations and conditions set out in the special use standards for outdoor storage, and which covers a maximum of 33 percent of a premises. All other outdoor storage shall be classified as a primary outdoor storage yard.
- (7) *Sidewalk display.* The accessory outdoor display of wares shall be subject to site plan review, and shall meet all of the following requirements:
- a. Shall be located within the property limits of the business from which it is being sold;
 - b. Shall not extend beyond the front of that business's building frontage;
 - c. Shall not extend more than ten feet outward from the front of the business's building;
 - d. Shall not be placed within, or interfere with any parking area or space(s);
 - e. Shall not block any sight triangle or the view of on-coming traffic;
 - f. Shall not block any pedestrian way and a minimum clearance width of three feet shall be provided;
 - g. Shall not be hung resulting in a clearance less than eight feet above a pedestrian way; and
 - h. Any display with moving parts shall not come into contact with pedestrians if there is any potential to cause harm, including movement driven by the movement of air or by mechanical or electrical means.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-64. Temporary use standards.

(a) *Purpose.* This section allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses comply with the standards in this subsection, and are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(b) *Use table for temporary uses and special events.* Temporary uses may be approved in the following districts:

Table 94-64.1: Temporary Uses*T = Temporary Use Permit*

Use Type	LDR	CON, A	MDR	HDR	NC	MU	CC	Downtown	ENT	Business	Industrial	Occurrence per Parcel per Year	Days per Occurrence	Use Stand.
Charitable Drop Box					T	T	T	T				One year permit, renewable		94-64(d)(1)
Construction Field Office/Storage Yard	T	T	T	T	T	T	T	T	T	T	T	Up to 3 year permit		94-64(d)(2)
Farmer's Market				T	T	T	T	T				52	1 consecutive	94-64(d)(3)
Food Truck				T	T	T	T	T	T	T	T	365	1 consecutive	94-64(d)(4)
Garage/Yard/Estate Sale	T	T	T	T	T							3, not more than once every 60 days	4 consecutive	94-64(d)(5)
Outdoor Sales/Promotional Event					T	T	T	T				7	5 consecutive	94-64(d)(6)
Portable Storage Unit	T	T	T		T	T	T	T	T	T	T	Up to 30, unless a valid building permit exists		94-64(d)(7)
Public Event on Private Property	T	T	T	T	T	T	T	T	T	T	T	5	3 consecutive	94-64(d)(8)
Recycling Drop-Off Center				T	T	T	T		T	T		One year permit, renewable		94-64(d)(9)
Searchlight							T	T				10	1 consecutive	94-64(d)(10)
Seasonal Sale					T	T	T	T				2	Up to 30	94-64(d)(11)
Temporary Office Facility					T	T	T	T	T	T	T	Up to 3 year permit		94-64(d)(12)
Temporary Vehicle Wash			T	T	T	T				T		4	1 consecutive	64-64(d)(13)

(c) *General standards for all temporary uses and structures.* All temporary uses shall be subject to the issuance of a temporary use permit, and shall meet the following general requirements, unless otherwise specified in this Code:

- (1) *Impact on subject property and surrounding properties and uses.*
 - a. The temporary use shall not be detrimental to property or improvements in the surrounding area, or to the public health, safety or general welfare.
 - b. Permanent alterations to the site are prohibited.
 - c. If the property is undeveloped, it shall contain sufficient land area to allow the temporary use to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected resources including required buffers, 100-year floodplains, river protection setbacks, and required

landscaping. At the conclusion of the temporary use, or at expiration of the permit, whichever occurs first, all disturbed areas of the site shall be restored or improved to the condition that existed prior to the use.

- d. If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
- e. Off-street parking shall be adequate to accommodate the proposed temporary use.
- f. Trash containers shall be provided on site for debris, and all waste from the permitted use shall be properly disposed of.
- g. The size, nature or location of the temporary use is not reasonably likely to cause a clear and present danger of injury to persons and property.

(2) *Compliance with applicable regulations.*

- a. The temporary use shall comply with all applicable general and specific regulations of this section, and this chapter, unless otherwise expressly stated.
- b. Temporary uses are only permitted on private property with the written permission of the property owner.
- c. All temporary signs associated with the temporary use shall be properly permitted and removed when the activity ends or the permit expires, whichever occurs first.
- d. The temporary use shall not violate any applicable conditions of approval that apply to a principal use on the site.
- e. The applicant or operator must obtain any other required permits, such as health or building permits prior to the commencement of the temporary use.
- f. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet all requirements of the code.

(d) *Supplemental temporary use standards.*

(1) *Charitable drop box.*

- a. Permitted on property zoned NC, MU, CC or D only.
- b. Shall be separated by a distance of at least 500 feet.
- c. Shall not obstruct pedestrian or vehicular circulation, nor be located in required building setbacks, landscape areas, drive aisles, required parking spaces, fire lanes, loading zones, buffers or any other location that may cause hazardous conditions, constitute a threat to the public safety, or create a condition detrimental to surrounding land uses.
- d. Shall be constructed of painted metal, rubber, wood or plastic, and shall be properly maintained in a safe and good condition. Each drop box shall have a firmly closing lid, and shall have a capacity no greater than six cubic yards. No drop box shall exceed seven feet in height.
- e. Shall be clearly marked to identify the specific items and materials requested to be left for donation, the name of the operator or owners of the donation container, the entity responsible for maintenance of the drop-off box and removal of materials and trash from the immediate area, and a telephone number where the owner, operator or agent of the owner or operator may be reached at any time. The box shall display a notice stating that

no items or materials shall be left outside of the donation drop-off box as well as a notice that shall read "Not for refuse disposal. Liquids are prohibited. Do not use for garbage, candy wrappers, soft drink bottles, etc."

- f. Occupation of parking spaces by drop boxes shall not reduce the number of available parking spaces below the minimum number required for the site if applicable.
 - g. All donated items must be collected and stored in the drop box. Donated items or materials shall not be left outside of drop box, and the area around each box shall be maintained by the owner or operator, or the property owner, free of litter and any other undesirable materials.
- (2) *Construction field office, construction storage yard.*
- a. In the residential districts, and for residential construction in a Mixed-Use District:
 - (i) This use is limited to on-premises construction purposes associated with the properties within the same platted subdivision, unless otherwise approved by the planning and development director.
 - (ii) The planning and development director may order the use to be discontinued and in no event shall such temporary use continue after subdivision construction is 90 percent complete.
 - b. In the Commercial and Industrial Districts, and for commercial construction in a Mixed-Use District:
 - (i) This use is limited to on-premises construction purposes associated with the properties within the same platted subdivision, unless otherwise approved by the planning and development director.
 - (ii) The planning and development director may order the use to be discontinued and in no event shall such temporary use continue after construction is substantially complete.
 - (iii) Sheds, warehouses and open air storage used by contractors in connection with the building of a principal building or the development of an area may be erected and used provided they shall be removed from the premises within ten days after substantial completion of the project or unusual suspension of work.
 - c. The authorization of extended use of construction trailers except to facilitate ongoing construction upon the premises may be granted by the planning and development director subject to the following conditions:
 - (i) Adequate utilities are connected to construction trailers.
 - (ii) No construction trailer shall be closer to any public road than 150 feet. However, if for safety reasons, topography or size of the property prohibits the required 150 feet from any public road, a reduction of the distance may be approved by the planning and development director, but in no case shall the construction trailer be closer than 25 feet from any public road.
 - (iii) Temporary use permits shall be issued for not to exceed six months. One extension of the temporary use permit may be approved by the planning and development director upon written request from the applicant, not to exceed an additional six months.
 - (iv) Any extension of the construction trailer after the first year must be approved by the planning commission. The planning commission may extend the use of the construction trailer for one year. After the first year, the planning commission may continue to allow for the continued use of the construction trailer at one-year intervals.

(3) *Farmer's market.*

- a. *Number of vendors*—Limited to a maximum of 25 agricultural vendors, and up to five nonagricultural vendors; only one nonagricultural vendor is allowed for every five vendors of agricultural products.
- b. *Operating hours*—Shall only operate, including any setup or breakdown activities, a total of 12 hours per day between the hours of 7:00 a.m. and 10:00 p.m.
- c. *Maximum area*—Shall not occupy an area larger than 20,000 square feet, and shall meet the zone district required setbacks and off-street parking.
- d. *Operating rules*—Each farmer's market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, maintenance, insurance, security requirements and responsibilities, and appointment of a market manager who directs the operation of all vendors.

(4) *Food truck.*a. *Site standards.*

- (i) Shall not conduct business or operate in the public right-of-way. May conduct business or operate on public property with approval from the parks and recreation director.
- (ii) Shall be limited to three per parcel unless approved as part of a special event, a promotional event or a food truck court.
- (iii) Shall be located at least 100 feet from any restaurant, outdoor dining area, and other establishment which sells or offers food (such as a grocery store, amusement park, lodging establishment, concession stand, etc.) unless permission has been given by the property owner.
- (iv) Shall not operate within 500 feet of the parcel boundary of any primary or secondary school when the school is in session.
- (v) Shall be located at least 20 feet from fire hydrants, utility boxes, mailboxes and traffic control boxes, unless permission has been given by the provider.
- (vi) All measurements shall be made by the city from the closest point on a food truck to the closest point on the relative building, object or parcel boundary.
- (vii) Within a parcel containing an active use, food trucks shall be located within approved off-street parking spaces, not including required handicap parking spaces. A minimum of two parking spaces shall be provided adjacent to the food truck to serve as a buffer.
- (viii) Vending carts shall not operate within a vehicular use area or impede the safe movement of vehicular and pedestrian traffic.

b. *Operation standards.*

- (i) May operate up to 365 days per calendar year.
- (ii) Food trucks shall be parked so as to require patrons to walk up to the vending window. Vendors shall not position the food truck to act as a drive-thru business nor solicit business from pedestrians on public property or persons in vehicles.
- (iii) The sale of alcoholic beverages is prohibited.
- (iv) Shall provide one trash receptacle and one recycling receptacle in a convenient location a maximum of three feet of the mobile food truck which does not impede pedestrian or vehicular traffic. All litter or debris generated within a minimum 25 foot radius of the food truck shall be collected and removed by the operator.

- (v) No outdoor seating shall be allowed except on properties containing a restroom made available to the public with permission from the property owner. A maximum of 12 seats per truck shall be allowed. All temporary seating shall be removed when the food truck is not in operation.
 - (vi) No accessory structures shall be allowed.
 - (vii) Exterior lighting shall be provided to ensure the safety of patrons, and shall be so arranged so as to minimize illumination onto adjoining residential property and so as to prevent glare directed at vehicles on streets and alleys.
 - (viii) One A-frame sign, as regulated within this chapter, shall be allowed within five feet of the food truck. No additional signage shall be allowed other than exhibited on, or inside the food truck. Such signs must be secured and mounted against the food truck, and may not project more than six inches from the exterior of the food truck.
 - (ix) Shall comply with the city's fats, oils and grease management program, including the location where the fats, oils and grease will be disposed of per this Code.
- c. *Private catering.* Food trucks may operate as a private caterer in any district in accordance with the following:
 - (i) Service shall be limited to private guests of the catering event only. No walk-up customers shall be permitted.
 - (ii) Payment shall occur directly between the catering event host and the food truck operator. No payment transactions shall occur for individual orders.
- (5) *Garage, yard or estate sale.*
 - a. No person shall advertise, conduct, hold, carry on or permit any outdoor display or outdoor sale of used merchandise or other items of used personal property in any commercial district, unless such display or sale is as follows:
 - (i) Antiques, used merchandise or other personal property which is part of the business's normal stock of inventory; or
 - (ii) On the grounds of a dwelling used for residential purposes, permitted pursuant to subsection (b) of this section.
 - b. No person shall advertise, conduct, hold, carry on or permit any home, garage, patio, yard or rummage sale on the grounds of, or within any dwelling within the city without a temporary use permit.
 - c. No temporary use permit shall be issued by the planning and development director to any person or premises more often than once every 60 days, and the permit shall be subject to the limitations provided in this division; provided, however, that schools, churches and bona fide nonprofit organizations may carry on rummage sales with no restrictions as to number of or duration of the sales if the sale is held on school or church property.
 - (6) *Outdoor sale/promotional event.* The temporary outdoor displaying of wares, including for temporary parking lot sales, shall only be permitted in the MU, CC, ENT, and D Districts within the front or side parking area by temporary use permit provided the following conditions are met:
 - a. Shall be located within the confines of the retailer's owned or leased property;
 - b. A sub-lessee may not occupy a parking lot for the purpose of conducting independent sales activity;
 - c. Shall be located at least 25 feet from all property lines;

- d. Shall not block any sight triangle or the view of on-coming traffic;
- e. A minimum clearance width of three feet within any pedestrian way or sidewalk shall be provided;
- f. No merchandise may be placed on landscaping, or within three feet of either side of a working doorway, or within ten feet directly in front of a working doorway;
- g. Merchandise shall not be hung resulting in a clearance less than eight feet above a pedestrian way. Additionally, any display with moving parts shall not come into contact with pedestrians if there is any potential to cause harm, including movement driven by the movement of air or by mechanical or electrical means;
- h. This section shall not apply to the sale of motor vehicles, trailers or boats;
- i. Hours of operation shall coincide with the hours of operation for the principal use; and
- j. All merchandise shall be secured during nonoperational hours.

(7) *Portable storage unit.*

- a. A portable storage unit may be permitted on a residential premises subject to the following:
 - (i) A portable storage unit is intended to be used only for temporary storage. It is not intended to be used for long-term, on-site storage, and any such use in any zoning district is expressly prohibited.
 - (ii) The outside dimensions shall not exceed 16 feet in length, eight feet in width and nine feet in height.
 - (iii) The unit must be placed on a paved surface. Portable storage units are prohibited on city streets or within any street right-of-way.
- b. A portable storage unit may be placed on a nonresidential zoned premises provided:
 - (i) The unit is located in a manner which does not hinder pedestrian or vehicular access to the premises, and does not obstruct intersection sight distance.
 - (ii) In emergency situations, the planning and development director may extend the length of time a portable storage unit can be located on a site.

(8) *Public event on private property.*

- a. These categories of temporary use may not be applied when any other temporary use standards are applicable. Event uses that include the use of public property are regulated as special events.
- b. A temporary use permit is required when the public event on private property is anticipated to displace more than ten percent of the required parking for an existing residential use, or 25 percent of the required parking for an existing nonresidential use on the site.

(9) *Recycling drop-off center.*

- a. The area used for recycling activities shall be limited to 500 square feet.
- b. Recyclables may be deposited in refuse-type containers, storage igloos, kiosks or other containers.
- c. No processing of the recyclables shall take place except for the depositing of materials and the collection of materials for transport to a different recycling center or other location for sorting and processing.
- d. No household hazardous waste shall be accepted at a recycling center.

e. The proposed recycling center cannot remove the required parking for the existing use.

(10) *Searchlight.*

- a. A searchlight display is limited to two searchlights.
- b. No searchlight shall be illuminated at any time when the angle between its beam and the ground surface is less than 60 degrees, or illuminate any structure without permission from the owner.
- c. May not be located within 150 feet of a residential district.
- d. Shall only be operated between 5:00 p.m. and midnight.
- e. Shall not interfere with normal airport operations, and evidence shall be provided of FAA approval.
- f. There shall be no advertising located on any part of the searchlight or its supporting structure.
- g. Shall not pose a safety problem as determined by the planning and development director.

(11) *Seasonal sale.*

- a. The use may only be located on a vacant lot, or on a lot occupied by a nonresidential use. The use shall not operate as an accessory to a principal residential use on a lot. In addition, the use shall not be located on a lot which adjoins a residential use unless the lot is located on a major thoroughfare.
- b. The use shall be located on an arterial street classification or higher.
- c. The use shall not involve or require the construction of a permanent building. A portable building may be permitted on site, and shall be removed within 48 hours of the expiration of the temporary use permit. Where required for security purposes as identified by the city, a recreational vehicle may be parked on the site for the duration of the use; the recreational vehicle used for security purposes may not be used as a residence.
- d. Goods or merchandise displayed in conjunction with a seasonal sale shall not exceed nine feet in height.
- e. Any signage which identifies the use shall be in accordance with the temporary sign standards.
- f. Five off-street parking spaces shall be provided for the use.
- g. The use, including all sale items, parking and maneuvering shall observe a setback of 25 feet from all property lines, and sale items shall not be located in the sight triangle.
- h. The operator is responsible for the removal of any vestige upon cessation of the seasonal sale, including signage.
- i. Seasonal retail fireworks sales shall additionally comply with the regulations of this chapter.

(12) *Temporary office.* The authorization of a manufactured structure to be utilized in any district for commercial activities is subject to the following conditions:

- a. *Generally.* A valid and active building permit shall be in place for the construction of a permanent business structure or residential development. Temporary office space may be approved by the planning and development director for a period of one year or less, and may be extended while a valid and active building permit remains in place.

b. *Real estate sales office.*

- (i) This use may be located in a "model home" or a portable building within the subdivision.
- (ii) The planning and development director may order the use discontinued and in no event shall such temporary use continue after subdivision sales are 90 percent complete.
- (iii) The permit shall identify specifically what is to be sold (i.e., the lots, condominium, apartment units, or dwelling units), the total number to be sold by unit type, and the specific lots and block of the development.

(13) *Temporary vehicle wash.*

- a. Silt socks shall be placed as necessary to prevent the runoff of undesirable waste.
- b. Biodegradable detergents shall be used.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2018-0068, § 2, 7-10-2018; Ord. No. 2020-0083, § 2, 8-11-2020)

Sec. 94-65. Special events.

(a) *Permit 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 planning and development director to the special event sponsor.

(b) *Event levels.* Staff shall determine special event levels based on the degree of impacts to the city including, but not limited to, anticipated attendance as related to the venue being used, transportation, and public safety. A special event may be determined to be either a level one, level two, or level three event based on meeting at least one of the following criteria for each category:

(1) *Level one event.*

- a. Attendance at any one time is estimated to be between one and 1,000 people, and will occur on a single day; or
- b. Will create minor impacts to the surrounding areas and can be held within an existing venue or use area; or
- c. Will require minor transportation needs including minimal removal of parking spaces or rolling street closures; or
- d. Will not require public safety staffing beyond their normal operations.

(2) *Level two event.*

- a. Attendance at any one time is estimated to be between 1,001 and 5,000 people, and will occur over multiple days; or
- b. Will create moderate impacts to the surrounding areas and can be held within an existing venue or use area; or
- c. Will require moderate transportation needs including removal of parking spaces or short-term street closures; or
- d. May require public safety staffing beyond their normal operations.

(3) *Level three event.*

- a. Attendance throughout the event is estimated to be above 5,000 people, and will occur over multiple and consecutive days; or

- b. Will create significant impacts to the surrounding areas and cannot be held within an existing venue or use area; or
 - c. Will require significant transportation needs including removal of parking spaces, a transportation mitigation plan, an off-site parking plan, or long-term street closures; or
 - d. Will require public safety staffing beyond their normal operations.
- (c) *Application for permit.*
- (1) The application for a special event permit shall be available in the planning and development department.
 - (2) The application for a special event permit shall be submitted to the planning and development director not more than 365 days, and not less than the following:
 - a. Level one events shall be submitted not less than 15 days prior to the event. Exceptions may be granted at the discretion of the planning and development director.
 - b. Level two events shall be submitted not less than 30 days prior to the event. Exceptions may be granted at the discretion of the planning and development director.
 - c. Level three events shall be submitted not less than 90 days prior to the event. Exceptions may be granted at the discretion of the city administrator. Once staff has completed the review of the application, it shall be submitted to the board. Approval given by the board shall be in the form of a resolution, stating any specific requirements or restrictions to be followed.
 - (3) The application for a special event permit shall include:
 - a. The name and contact information 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 the names of its directors and officers and their contact information shall be included.
 - b. The purpose or description of the event, and the estimated number of participants or those attending.
 - c. The dates the event is to be held, and the time it is to commence and terminate, including setup and shutdown times.
 - d. The location of the event, including a drawing or plan showing the entire location to be utilized by the event in relation to existing buildings, location within the parcel, drive areas, layout of parking areas, and the amount of space available for off-street parking.
 - e. The specific streets, or portions thereof, to be closed, if any, for the event.
 - f. A plan for, and description of the use of temporary signage.
 - g. A public notification plan which shall notify members of the public who might reasonably be affected by the special event. The plan may consist of notification by postcard, signage, e-mail notification, published notification or a combination thereof.
 - h. Whether alcoholic beverages will be allowed, provided or sold by vendors during the event, and the plan or description for such allowance or provision for the purpose of assessing city police, finance department, and county health department responses.
 - i. A plan or description for the use of lighting, music, loudspeakers, a live band, or sound system, if any, during the event, and the type and location of speakers and other audio, and lighting equipment.

- j. The name and address of the security company, if any, engaged for the event, and a description of the duties to be performed.
- k. A plan or description for fire protection for the event, including a map specifying the location of 18-foot fire lanes, water supply for fire control and the use of tents.
- l. A plan or description for emergency medical services for the special event.
- m. A plan or description for the handling of food.
- n. A plan or description for the compliance with the city's fats, oils and grease management program, including the location where the fats, oils and grease will be disposed of per this chapter.
- o. A plan for the disposal of sanitary waste and sewage for the event, including toilet facilities, and the disposal of garbage, trash and refuse.
- p. A plan or description for the use or allowance of animals during, or as a part of the event.
- q. A plan or description for compliance with the city's horse-drawn carriages for hire requirements per this chapter, including the proposed route.
- r. Compliance with this chapter relating to business licenses for the event.
- s. 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 an insurance policy in accordance with this chapter. The policy shall not be canceled without 30 days' written notice to the city. The city shall be the named additional insured, and the event sponsor shall execute a hold harmless agreement indemnifying the city.
- t. Any additional information which the planning and development director shall find reasonably necessary to make a fair determination as to whether a permit should be issued.

(d) *Issuance of permit; conditions; transfer; expiration.*

- (1) Special event permits shall be granted or denied by the planning and development director, unless approval is required from the board under this section, 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 in which possession and consumption of alcoholic beverages will be confined, and regulations concerning prohibited noises.
- (2) Special event permits are not transferable, and shall expire at the close of the last date of the event for which the permit has been issued. Failure of the sponsors of the event to comply with the terms and conditions of a special event permit and the applicable ordinances and laws of the state shall immediately void the permit.
- (3) The planning and development director shall issue a special event permit as provided for in this section when, from a consideration of the application, upon the approval of the applicable city departments, including, without limitation, fire, police, and finance, and approval of the county health department, and from such other information as may otherwise be obtained, he finds that:
 - a. The conduct of the event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location unless approved by the police chief;
 - b. The conduct of the 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 police chief;

- c. The conduct of such event will not require the diversion of so great a number of ambulances or emergency medical services not otherwise provided for by the event sponsor as to prevent normal ambulance and emergency medical service to portions of the city other than that to be occupied by the proposed event and areas contiguous thereto;
- d. The concentration of persons, animals and vehicles at the location of the event will not unduly interfere with proper fire and police protection or ambulance and emergency medical services to the area of the event and the areas contiguous thereto unless approved by the fire chief and police chief;
- e. The conduct of such event will not interfere with the movement of firefighting equipment en route to a fire unless approved by the fire chief;
- f. The conduct of the 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;
- g. The conduct of the 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 event; and
- h. 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 factors listed in this section.

(e) *Notice of denial of permit; appeal procedure.*

- (1) The planning and development director shall act upon the application for a special event permit within ten business days after the date filed. If the planning and development director disapproves the application, the denial shall be mailed to the applicant, within ten business days after the date upon which the application was filed, a notice of the action, stating the reasons for the denial of the permit.
- (2) Any disapproval of a special event permit application must first be reviewed by the city administrator.
- (3) Any person aggrieved by the decision of the planning and development director shall have the right to appeal the denial of a special event permit to the board. The appeal shall be filed with the city clerk no later than 30 days after the date of the notice issued by the planning and development director. The board shall hear the appeal of the applicant as an agenda item at a board meeting, not to exceed 30 days after its receipt by the city clerk.

(f) *Alternative permit.* The planning and development director, in denying an application for a special event permit, may issue an alternative 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 planning and development director, file a written notice of acceptance with the planning and development director. An alternative special event permit shall conform to the requirements of, and shall have the effect of, a special event permit under this chapter.

(g) *Modification or rescission of permit.*

- (1) The planning and development director may modify or rescind any special event permit for good cause, including, but not limited to:
 - a. 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.

- b. A determination of noncompliance by the event sponsor of any terms or conditions of the permit.
 - c. 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.
 - d. A determination that the event sponsor is in violation of any ordinance.
- (2) The appeal from the decision to modify or rescind a special event permit by the planning and development director shall proceed in accordance with this section, relating to the issuance of notifications, times and procedures to be followed.

(h) *Responsibility for expenses incurred by city.* The special event sponsors, and any other individuals or organizations named in the permit, may be responsible for any expenses incurred by the city as a result of their event. The city may require a deposit or bond prior to the issuance of a special event permit.

(i) *Period of operation; duration.*

- (1) Events shall take place only between the hours of 7:00 a.m. and 11:00 p.m., Sunday through Thursday, and 7:00 a.m. and 11:59 p.m., Friday through Saturday. Exceptions may be granted at the discretion of the director of planning and development or board.
- (2) Permits shall be valid for a maximum of five days within a consecutive 14-day period. A repeat special event shall not occur more frequently than once every 60 days. Exceptions may be granted at the discretion of the planning and development director or the board.

(j) *Duty to restore event location.*

- (1) Special event sponsors shall be responsible for the cleaning and restoration of the location the event occupies, or causes debris or litter upon, 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.
- (2) Special event sponsors may be required to submit to the planning and development director a deposit for the cleaning and restoration of areas adjacent to the special event location by the public works department.

(k) *Exempt events.* Any event sponsored by the city, as well as any emergency services program, military exercise simulation, funeral process, picketing, training drill, activities held inside a building or facility intended for such activities, or any governmental agency acting within the scope of its functions, shall be exempt from complying with the requirements of this chapter.

(l) *Temporary events.* Any activity or event defined as a temporary event, or regulated in this chapter, shall not be considered a special event.

(m) *Event advertising.*

- (1) Event signage shall comply with this chapter.

- (2) Temporary signage shall be installed for a maximum of seven days prior to the special event, in addition to the days of the special event, and a maximum of two days after the special event. Each special event may have a maximum of 20 off-premises yard signs and ten off-premises banner signs.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0131, § 2, 9-24-2019; Ord. No. 2020-0156, § 2, 11-10-2020)

Secs. 94-66—94-79. Reserved.

ARTICLE V. DEVELOPMENT STANDARDS

Sec. 94-80. Development standards.

- (a) *General applicability.* The provisions of this chapter shall apply as identified in this article.

Table 94-80.1: Applicability of Development Standards

	Single-Family	Two-Family	Multifamily	Commercial	Industrial
	Percent compliance with development standards [1]				
New development					
New development	100	100	100	100	100
Existing development [2]					
External less than 25%	n/a	n/a	n/a	n/a	n/a
External between 25% and 75%			See section (a)(2)a(ii), below		
External greater than 75%	100	100	100	100	100
Interior	n/a		Off-street parking standards applicable[3]		
Nonconformities					
Lots	<i>Development standards are not applicable to lot without structure</i>				
Uses	<i>Uses may not be enlarged or increased per this article</i>				
Structures [4]	100	100	100	100	100
Uses of structures and land in combination	<i>Alterations are not permitted per this article</i>				
Landscaping	See subsection (b)(1), below				
Notes:	<p>[1] Only standards applicable to the specific development type.</p> <p>[2] Based on the total area of the individual structure.</p> <p>[3] Uses that exceed maximum parking standards may not increase overall parking count.</p> <p>[4] External changes only; compliance with development standards applicable to enlargement or alteration where permitted, as well as reconstruction following damage or destruction.</p>				

- (1) *New development.* The development standards shall apply to all new development unless otherwise specified in the specific development standard.
 - (2) *Existing development.*
 - a. *External additions.* The development standards shall apply to all external additions as follows:
 - (i) External additions that increase the market value of the existing structure by less than 25 percent shall not be required to comply with these development standards.
 - (ii) External additions that increase the market value of the existing structure by more than 25 percent, but less than 75 percent, shall require a corresponding percent increase in compliance with these development standards or until the site reaches compliance, whichever is less. For standards without specifically measurable requirements, the planning and development director shall make a determination as to how compliance shall be achieved. The planning and development director's determination may be appealed to the planning commission.
 - (iii) External additions that increase the market value of an existing structure by 75 percent or greater shall be required to fully comply with these standards.
 - b. *Interior changes.* Where development changes are wholly internal to the existing structure, only the off-street parking requirements of these regulations are applicable. This requirement may be waived by the planning and development director where the applicant can show there is sufficient existing parking to service the interior changes.
 - (3) *Ten-year timeframe.* Any application by property owners to expand structures shall remain on record for ten years from the date of said work completion. Any subsequent application to expand structures shall be cumulative to any requests made within the previous ten years. The total shall be used by the city to determine the property owner's necessary level of compliance.
- (Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-81. Nonconformities.

(a) *Nonconforming uses.* Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter or amendments to this chapter, the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
- (2) No such nonconforming use shall be moved, in whole or in part, to any portion of the parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
- (3) If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(b) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption, or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, parcel coverage, height, yard, site location on the parcel, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- (2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to any extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(c) *Nonconforming uses of structures and land in combination.* If lawful use of structure and land in combination exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance from which this chapter is derived, but no such use shall be extended to occupy any land outside such a building.
- (3) If no structural alterations are made, any nonconforming use of a structure and land may as a special exception be changed to another nonconforming use provided that the board of adjustment, either by general rule or by making finding in the specific case, shall find that the

proposed use is equally appropriate, or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

- (4) Any structure and land in combination, in which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- (5) When a nonconforming use of a structure and land in combination is discontinued or abandoned for six consecutive months, or for 18 months during any three-year period (except when government action impedes access to the premises), they shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- (6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(d) *Repairs and maintenance.*

- (1) On any nonconforming structure, or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure or portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
- (2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored or rebuilt except in conformity with the regulations of the district in which it is located.
- (3) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(e) *Special use provisions not nonconforming uses.* Any use which is permitted as a special use in a district under the terms of this chapter (other than a change through board of adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

(f) *Annexed property.* When territory, which is the subject of a current Division I, Division II or Division III permit previously issued by the county, is annexed into the city, such territory shall be deemed zoned within the city in accordance with the land use authorized under such Division I, Division II or Division III permit. Following annexation, such territory shall be developed in accordance with all applicable zoning regulations of the city.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Secs. 94-82—94-84. Reserved.

ARTICLE VI. OFF-STREET PARKING

Sec. 94-85. Purpose.

The purpose of this section is to promote safe access, and to regulate the amount and location of vehicle parking and maneuvering areas in order to promote a more efficient use of land, enhance urban form, encourage the use of alternative modes of transportation, provide for better pedestrian movement, and protect air and water quality. The provisions of this section are intended to:

- (a) Prevent and alleviate the congestion of public streets;
- (b) Encourage the incorporation of alternative modes of transportation by emphasizing pedestrian circulation, and establishing requirements for bicycle parking;
- (c) Minimize the detrimental effects of vehicular use areas on adjacent properties;
- (d) Promote the health, safety and public welfare by establishing maximum requirements for off-street parking and loading areas; and
- (e) Limit parking to encourage more compact, walkable developments.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-86. Applicability and location.

(a) *Scope of regulations.*

- (1) Off-street parking space shall be provided for all new buildings and structures, for changes in use which increase the capacity, available gross floor area, intensity of use, or other unit of measurement specified herein, and for additions to existing structures.
- (2) The term "addition" as used in this section shall include any alteration intended to enlarge or increase capacity by adding or creating dwelling units, guestrooms, floor area or seats.
- (3) Any building completed, and in use at the time of passage of the ordinance from which this article is derived, shall not be required to furnish any additional parking spaces that may be required by this chapter. When the intensity of use of a structure is in any way increased, all restrictions of this article shall pertain.
- (4) Where parking on a site is provided in an amount above the parking maximum, that amount of parking may be retained until redevelopment or external additions increase the market value of the existing structure by 75 percent or greater, at which time parking shall be brought into compliance with these regulations.
- (5) Accessory off-street parking and loading facilities in existence of the effective date of this chapter, and located on the same lot as the building or use served, shall not hereafter be reduced below the requirements of this article for a similar new building or use. If such existing facilities are already below the required amount, they shall not be hereafter further reduced.

(b) *Location of parking.*

(1) *Generally.*

- a. Parking spaces required for dwellings shall be located on the same parcel, or site, as the main dwelling, and located either in a garage or on a paved driveway or parking area.
- b. New parking spaces created in residential districts after the effective date of these regulations shall not occupy any part of any required front yard except for the driveway. Parking on a nonpaved surface in the front yard shall be prohibited.

- c. Parking in Commercial and Mixed-Use Districts shall be located to the side or rear of the primary structure. One double-loaded row of surface parking may be allowed between the front of a commercial structure and the front setback provided 50 percent additional landscaping is provided pursuant to this chapter.
 - d. Parking spaces shall be reserved for the sole use of the occupants and employees of the building and their visitors. However, churches, theaters, stadiums, auditoriums and other similar places of assembly may make arrangements for joint use of parking space with other uses herein specified.
- (2) *Structured parking.* The off-street parking required by this article may be located in a parking structure, whether on the same or on a different lot than the uses which it serves. Such structure shall be subject to the following:
- a. Ground floor parking provided in a parking structure shall be landscaped and screened, insofar as practicable, from surrounding uses and from public view. In addition, for uses located on the same lot as the structure, the conditions required for shared parking shall apply. For uses located on a different lot as the structure, the conditions required for off-site parking shall apply.
 - b. Parking structures with ground floors that are not completely wrapped with commercial, office, institutional, public uses or civic uses on the side facing an intersection (except sides abutting alleys) shall not:
 - (i) Abut street intersections or public/civic use areas, or
 - (ii) Occupy sites that are the terminus of a street vista.
- (c) *Off-site parking.* All off-street parking areas for any use shall be provided on the same lot as the use it serves. However, parking may be allowed on another lot where there are practical difficulties in the location of the parking area or if public safety or public convenience, or both, are better served by a remote location. Off-site parking shall be approved by the planning and development director, and shall comply with the following standards:
- (1) *Same ownership.* The parking area is located on land under the same ownership as the use it serves, or a recorded easement in perpetuity that has been established for the use of an off-site location for parking and filed with city clerk and county recorder.
 - (2) *Distance between off-site parking area and the proposed use.*
 - a. Off-site parking for multiple-family dwellings shall not be located more than 200 feet from any normally used entrance of the principal use served.
 - b. Off-site parking for nonresidential or mixed-uses shall not be located more than 300 feet from any normally used entrance of the principal use served.
 - c. The above distances shall be measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.
 - (3) *No undue hazard.* The off-site parking area shall be convenient to use without causing unreasonable:
 - a. Hazard to pedestrians,
 - b. Hazard to vehicular traffic,
 - c. Traffic congestion,
 - d. Interference with commercial activity or convenient access to other parking areas in the vicinity,
 - e. Detriment to the appropriate use of business lands in the vicinity, or

f. Detriment to any abutting residential neighborhood.
(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-87. Off-street parking standards.

(a) *Computation of required off-street parking spaces.*

- (1) *Fractions.* When measurements of the number of required parking spaces result in fractions, the space standard shall be rounded upward to the next highest whole number.
- (2) *Different use areas.* Except as provided for in this section, parking shall be calculated separately for each different use area in a building or on a site, including all accessory uses.
- (3) *Combinations of uses.* If the planning and development director determines that a proposed use represents a combination of uses listed in Table 94-87.1, Off-Street Parking Standards, the parking space standards shall be those that would apply if the two (or more) uses were developed separately, unless the planning and development director determines that a lower standard would be adequate because of differences in peak operating hours pursuant to this chapter.
- (4) *On-street parking.* Except as permitted as part of an approved Alternative Parking Plan, on-street parking on streets, shall not be used to satisfy the off-street parking standards of this article.
- (5) *Parking based on seating.* When the standards use seating as a unit of measurement, all calculations shall be based on the occupant load of the areas used for seating.
- (6) *Parking based on floor area.* Except as provided for in this section, when the standards use amount of square footage in buildings as a unit of measurement, all calculations shall be based on gross floor area minus ten percent except as may hereinafter be modified.
- (7) *Parking based on occupants.* Except as provided for in this section, when the standards use the number of occupants as a unit of measurement, all calculations shall be based on the maximum fire-rated capacity.
- (8) *Fleet parking.* For the purpose of calculating parking requirements, fleet vehicle parking spaces shall not count against either the minimum or maximum requirements.

(b) *Determination by planning and development director.*

- (1) Parking standards for uses not specifically listed in Table 94-87.1, Off-Street Parking Standards, shall be determined by the planning and development director based on the standards for the closest comparable use, or by reference to standard parking resources published by the National Parking Association, the American Planning Association or similar organization.
- (2) The planning and development director may alternately require the submittal of a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Transportation Engineers (ITE), and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity and location.

(c) *Off-street parking spaces required.* Off-street parking spaces shall be provided in accordance with Table 94-87.1, Maximum Off-Street Parking Standards. Where this table does not specify a parking requirement, the standards of subsection 94-87(d) apply.

Table 94-87.1: Maximum Off-Street Parking Standards
Dwelling Unit = du Gross Floor Area = GFA

Use	Parking Requirements
Residential	
Household Living	
Dwelling	
Single-Family, Detached	None
Single-Family, Attached (3 or more units)	None
Single-Family, Duplex	None
Single-Family, Patio Home	None
Multi-Family	1 per studio; 1.5 per 1 br; 2.0 per 2 br; 2.5 per 3 br; 2.5 + 0.5 for each br more than 3; plus 1 per 5 units
Home-Based Occupation	As required for dwelling type and Sec. 94-62(b)(1)
Live/Work	1 per du plus parking for work use
Loft	1 per du
Manufactured Home	2 per du
Modular Housing	2 per du
Mobile Home Community	Per 94-62(a)(3)
Group Living	
Congregate Living Facility/Senior Housing	1 per 2 beds plus 1 per 100 sf of assembly area
Group Home	1 per 4 beds plus 1 per 100 sf of assembly area
Nursing, Convalescent, and Rest Home	1 per 2 beds plus 1 per 100 sf of assembly area
Shelter Care Facility	1 per 4 beds
Civic and Institutional	
Community Services	
Cemetery and Mausoleum	94-87(e)
Civic, Social, and Fraternal Organizations	1 per 300 sf GFA
Community Center	1 per 200 sf GFA
Cultural Institutions, Public	1 per 250 sf GFA
Government Offices and Facilities	1 per 300 sf GFA of space used by the public + 1 per 600 sf GFA of space not used by the public
Public Service Facilities	94-87(e)
Religious Assembly	1 space per 75 sf GFA in the main assembly space
Day Care	
Family Day Care Home	94-61(c)(4)
Group Day Care Home	94-61(c)(5)
Child Care Center	94-61(c)(5)
Educational Facilities	
School, Primary or Secondary, Public or Private	Elementary Schools: 2 per classroom; Middle Schools: 2 per classroom; High Schools: 10 per classroom
School, Vocational-Technical and Trade	1 per 300 sf of enclosed floor space
University or College	1 per 300 sf of enclosed floor space
Health Care Facilities	
Alcohol and Drug Abuse Treatment Facility	1 per 1,000 sf GFA
Hospital	1 per 2 beds based on maximum capacity, plus 1 per 350 sf of office and administrative area, plus parking as required for accessory uses
Medical and Dental Offices and Clinics	1 per 200 sf GFA
Urgent Care Facility	1 per 200 sf GFA treatment plus 1 per 300 sf GFA remaining area
Parks and Open Space	
Athletic Area	94-96(d); Playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field
Park and Playground	94-87(e)
Recreation Areas and Facilities	94-96(d); Playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field

Use	Parking Requirements
Transportation	
Airport and Passenger Terminal	1 per 400 sf GFA passenger terminal area
Bus Garaging and Equipment Maintenance	1 per 2,000 sf GFA for indoor and outdoor storage areas plus 1 per 300 sf GFA Interior office
Bus Terminal	1 per 200 sf GFA
Utility	
Utility	
Major Facilities/Service Yard	94-87(e)
Minor Facilities/Office	94-87(e)
Wireless Communication Facility	
Antenna and Antenna Support Structure	None
Telecommunications Tower and Facility	1 per location
Commercial	
Animal Sales and Service	
Pet Grooming	1 per 300 sf GFA
Pet Shop	1 per 200 sf GFA
Kennels	1 per 500 sf GFA
Shelter	1 per 500 sf GFA
Stables (commercial)	1 per 5 stalls
Veterinary Services	
Indoor Only	1 per 250 sf GFA
With Outdoor Facilities	Indoor plus 1 per 1,000 sf outdoor GFA
Office	
Business and Professional Office	1 per 300 sf GFA
Recreation and Entertainment, Outdoor	
Amusement Park or Theme Park	30 per acre of site
Golf Course	4 per hole plus 2.5 per 1,000 sf GFA in clubhouse
Recreation and Entertainment, Outdoor	30 per acre of site
Marina	0.75 spaces per boat slip plus parking as required for other uses
Recreation and Entertainment, Indoor	
Amusement Parlor/Arcade	1 per 150 sf GFA
Fortune Telling	1 per 200 sf GFA
Recreation and Entertainment, Indoor	1 per 200 sf GFA
Theater	1 per 3 seats
Commercial Services	
Commercial Services, General	1 per 200 sf GFA
Eating and Drinking	
Brewery, Distillery or Winery	1 per 100 sf of floor area accessible to customers
Microbrewery	1 per 200 sf of floor including outside dining/drinking areas
Restaurant	1 per 60 sf of floor including outside dining/drinking areas
With Drive-Thru	Restaurant plus stacking spaces, see Section 94-87(j)
Financial Services	
All Financial Services	1 per 300 sf of floor area plus stacking as necessary, see Section 94-87(j)
Off-Premises Contacts (OPC)	1 per 250 sf GFA
Adult Entertainment	1 per 250 sf GFA
Retail Sales and Personal Services	
Retail	
General Retail, No Drive-Thru, up to 100,000 sf GFA	1 per 200 sf GFA
100,000—399,999 sf GFA	1 per 250 sf GFA
400,000 sf and greater	1 per 300 sf GFA
With Drive-Thru	Stacking requirements 94-87(j)
Home Supply and Lumberyard	1 per 200 sf GFA
Plant Nursery and Greenhouse	1 per 200 sf GFA

Use	Parking Requirements
Personal Services	
Personal services	1 per 200 sf GFA
Dry Cleaner/Laundromat/Laundry	1 per 250 sf GFA plus stacking as necessary, see Section (94-87)(j)
Lodging Establishment	
Bed and Breakfast Inn	1 per guest room in addition to those required for principal residence
Campground and Vehicle Park	RV: 1 per RV parking space plus 1 per each 10 RV parking spaces Campground: 1 per 350 sf within campground area plus 1 per 10 campground spaces
Hotel and Motel	1 per guest room up to 100 units, then 0.75 per unit over 100; 50% of spaces may be counted to satisfy parking requirements of accessory uses
Timeshare Unit	Unit with 2 or fewer bedrooms, not lock-off: 1 per unit Unit with 2 or fewer bedrooms with lock-off: 1.5 per unit Unit with three or more bedrooms: 2 per unit
Vehicles and Equipment	
Car Wash	Stacking requirements 94-87(j)
Vehicles	
Rental Services	1.5 per 1,000 sf GFA
Repair Services	1.5 per 1,000 sf GFA
Sales	1.5 per 1,000 sf GFA plus 0.7 per 1,000 sf open air display up to 4,500 sf plus 0.2 per each additional 1,000 sf open display or storage area
Commercial Parking	None
Gasoline Service Stations	1 per 200 sf GFA, minimum 5 spaces including spaces located in front of fuel pumps
Accessory Car Wash	Stacking requirements 94-87(j)
Electric Vehicle Charging Station	none
Truck Stop	1 per 200 sf of building area (excluding car wash area) and required stacking spaces per 94-87(j)
Industrial	
Industrial Service and Manufacturing Assembly	
All uses	94-87(d)
Energy Production and Natural Resource Extraction	
All uses	94-87(d)
Wholesale, Storage, and Distribution	
All uses	94-87(d)
Waste and Salvage	
Automobile-Parts Recycling Business	94-87(d)
Recycling Collection Facility	94-87(e), minimum 2 spaces
Agricultural	
All uses	94-87(e)

(d) *Off-street parking standards for selected service and industrial uses.* Uses that reference this subsection in Table 94-87.1, Maximum Off-Street Parking Standards, shall provide no more than the number of spaces identified in Table 94-87.2, Maximum Off-Street Parking Standards for Selected Service and Industrial Uses:

Table 94-87.2: Maximum Off-Street Parking Standards for Selected Service and Industrial Uses

Use or Activity	Required Number of Spaces
Office or administrative area	1.0 space per 300 square feet
Indoor sales area	1.0 space per 200 square feet
Indoor storage, warehousing, assembly, vehicular service, or manufacturing area:	1—3,000 square feet of floor area
	3,001—5,000 square feet of floor area
	5,001—10,000 square feet of floor area
	10,001 or more square feet of floor area
Outdoor sales, display, or storage area (3,000 square feet or less)	1.0 space per 750 square feet
Outdoor sales, display, or storage area (more than 3,000 square feet)	1.0 space per 1,000 square feet

NOTE: The total number of required spaces is cumulative based on the variety of different functions present in a single use.

(e) *Uses with variable parking demand.* Uses that reference this subsection in Table 94-87.1, Maximum Off-Street Parking Standards, have widely varying parking demand characteristics making it difficult to establish a single off-street parking standard. Upon receiving a development application for a use subject to this subsection, the planning and development director shall apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use, or establish an off-street parking standard on the basis of a parking study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Transportation Engineers (ITE), or other acceptable estimates as approved by the planning and development director, and should include other reliable data collected from uses or combinations of uses that are the same as, or comparable with, the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity and location. The study shall document the source of data used to develop the recommendations.

(f) *Maximum parking spaces allowed.*

- (1) *Applicability.* Off-street vehicle parking spaces shall not be provided in an amount that is more than the amount specified in Table 94-87.1 unless the maximum parking requirement is waived or mitigated as provided in this section.
- (2) *Maximum parking calculation exceptions.* For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum parking requirement:
 - a. Accessible parking;
 - b. Vanpool and carpool parking;
 - c. Spaces with electrical vehicle charging stations, up to a maximum of two per 50 parking spaces, or as determined by the planning director;
 - d. On-street parking adjacent to the lot or lots on which the parking located; and
 - e. Structured parking, underground parking, and parking within, above or beneath the building(s) it serves.
- (3) *Maximum parking waiver.*
 - a. *Parking demand study.* Requests to exceed the maximum parking requirement shall be accompanied by a parking demand study demonstrating how the maximum number of parking spaces specified in Table 94-87.1 is insufficient for the proposed development.

- b. *Review criteria.* A waiver to the maximum parking requirement may be allowed by the planning and development director in situations that meet the following criteria:
 - (i) The proposed development has unique or unusual characteristics such as high sales volume per floor area or low turnover, that create a parking demand that exceeds the maximum ratio and that typically does not apply to comparable uses;
 - (ii) The parking demand cannot be accommodated by on-street parking, shared parking with nearby uses, or by increasing the supply of spaces that are exempt from the maximum ratio;
 - (iii) The request is the minimum necessary variation from the standards; or
 - (iv) If application of the maximum parking standard would result in fewer than six parking spaces, the development shall be allowed six parking spaces.
- (4) *Design requirements for excess parking.* Parking that is provided in excess of the maximum parking requirement shall be required to include increased internal landscaping and incorporate pervious pavement as described below.
 - a. *Pervious surfaces.* Where parking spaces in excess of the maximum specified in Table 94-87.1 are constructed, an area equal to the total area required for the number of spaces that exceed the maximum parking requirement shall be constructed of pervious surfaces as approved by the public works director.
 - b. *Additional trees and landscaping.*
 - (i) Applicants that request parking that exceeds the number of spaces required by Table 94-87.1 shall provide additional parking lot trees and landscaping as follows:

Table 94-87.3: Additional Landscaping Requirement for Overparking

Amount of Excess Parking Requested Over Maximum (percent)	Additional Landscaping (percent)
5	5
6–10	10
11–15	15
16–20	20

- a. Any required additional landscaping shall be distributed throughout the site as determined by the planning and development director, and in accordance with Table 94-87.3. The additional landscaping shall be integrated with the parking lot and site design.
- b. Where the provision of additional landscaping is restricted for infill and redevelopment projects due to site constraints, the applicant may provide sidewalk amenities or streetscape features as determined by the planning and development director. Acceptable amenities shall have a value equal to or greater than the price of the additional landscaping features required in Table 94-87.3, and may include but are not limited to:
 - (i) Sidewalk planters between the parking area and building, or the parking area and the street;
 - (ii) Public art including, but not limited to, sculptures, fountains, clocks or murals; or
 - (iii) Decorative fencing (such as wrought iron) around the perimeter of the parking area provided with seasonal plantings.

(g) *Bicycle parking.*

- (1) *Required number of spaces.* Bicycle parking shall be provided as follows unless otherwise approved by the planning and development director due to safe accessibility:

Table 94-87.4: Required Bicycle Parking

Use	Bicycle Parking Spaces [1]
Multiple-family	2 or 1 per 20 units
Group home	1 per 4 bedrooms
Office	2 or 1 per 40,000 sq. ft. (net area)
Commercial sales and service	2 or 1 per 5,000 sq. ft. (net area)
Community use (non-utility)	2 or 1 per 10,000 sq. ft. (net area)
Schools	2 per classroom
Notes: [1] Whichever measurement results in the higher number of spaces.	

- (2) *Design and location.* Bicycle parking facilities shall include a rack or storage facility (e.g., locker) that enables bicycles to be secured. Where racks are used, they shall meet the following standards:

- a. The bicycle frame and one wheel can be locked to the rack with a high-security, U-shaped shackle lock if both wheels are left on the bicycle;
- b. A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components;
- c. The rack must be securely anchored;
- d. Bicycle racks and storage facilities shall be accessible without moving another bicycle;
- e. Bicycle racks and storage facilities shall be located in convenient, visible, well-lit areas with easy access and near main entrances of all commercial, residential and institutional buildings. Such locations shall be clearly noted with signage;
- f. The racks and storage facilities shall be located so they do not interfere with pedestrian traffic, and shall be protected from potential damage by motor vehicles; and
- g. Bicycle parking shall not be within any required landscape area, nor interfere with any pedestrian pathway.

- (h) *Loading areas.* A permanently maintained usable off-street loading space shall be provided on the same parcel when structures for the following uses are erected, established or altered:

- (1) Hospitals or similar institutions with a gross floor area (GFA) of 10,000 square feet or more shall provide one space, exclusive of ambulance space.
- (2) Hotels and office buildings with a GFA of 10,000 square feet or more shall provide one space.
- (3) Undertakers and funeral parlors shall provide one space for each 5,000 square feet of GFA.
- (4) All commercial and industrial uses with a GFA of 5,000 square feet or more shall provide one space for the first 25,000 square feet, and one additional space for each 50,000 square feet GFA thereafter, or any portion thereof.

(i) *Vehicle stacking areas.* The following standards shall apply to businesses that contain a drive-through establishment (e.g., restaurant or financial institution), and are a stand-alone use (e.g., automatic teller machine):

(1) *General standards.*

- a. Audible electronic devices such as loudspeakers, automobile service order devices and similar instruments shall not be located within 250 feet of any residential dwelling unit.
- b. No service shall be rendered, deliveries made or sales conducted within the required front yard or abutting street side yard; customers served in vehicles shall be parked to the sides or rear of the principal building.
- c. All drive-through areas, including but not limited to, menu boards, stacking lanes, trash receptacles, loudspeakers, drive-up windows and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with or impede any public right-of-way.

(2) *Stacking space and lane requirements.* Stacking lanes shall comply with the following design standards:

- a. Drive-through stacking lanes shall have a minimum width of eight feet, and length of 20 feet.
- b. The first position in a drive-through station, located at the window, is counted as a stacking space. No stacking spaces may be counted as parking spaces unless specified in Table 94-87.1.
- c. Stacking lanes shall be set back 25 feet from rights-of-way.
- d. All stacking lanes must be clearly identified, through the use of means such as striping, concrete curbing, landscaping and signs.
- e. The number of required stacking spaces shall be as provided for in Table 94-87.5, Stacking Space Requirements. See Figure 94-87.A for an illustration of stacking lanes:

Table 94-87.5: Stacking Space Requirements

Activity	Minimum Stacking Spaces (per lane)	Measured From:
Retail Sales, Bank, Financial Institution, or Automated Teller Machine (ATM)	3	Teller or Window
Restaurant	6	Pick-Up Window
Full-Service Vehicle Washing Establishment	6	Outside of Washing Bay
Self-Service or Automated Vehicle Washing Establishment	2	Outside of Washing Bay
Fuel or Gasoline Pump Island	2	Pump Island
Other	As Determined by the Planning and Development Director	

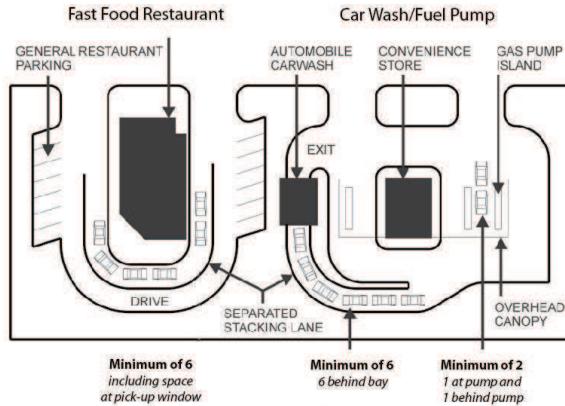


Fig. 94-54.A: Stacking Lanes

(j) *Access.*

- (1) All driveway entrances, including stacking lane entrances, must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance. The public works director may determine that a right in, right out entrance is permitted closer than 50 feet from an intersection.
- (2) The entrance to a stacking lane shall be located so as to avoid conflicting with the street access.
- (3) Access driveways on a corner site shall be located as far as possible from the abutting street intersection.
- (4) Pedestrian/barrier-free access to building entrances shall provide direct pedestrian links to main parking areas and public sidewalks that do not pass through a stacking lane.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2024-0061, § 2, 7-9-2024)

Sec. 94-88. Off-street parking design standards.

(a) *Stall size and driveways.* The required minimum area for off-street parking spaces and the required minimum area for driveways or other access serving off-street parking spaces shall be as follows:

- (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) Twenty percent of the required off-street parking spaces over and above the first ten required spaces may be provided in eight-foot by 16-foot "compact" spaces.
- (3) All compact spaces must be permanently marked for "compacts only."
- (4) The required minimum area for compact and full-size, off-street parking spaces, and the required minimum area for driveways and other access serving off-street parking spaces are shown in the charts which are included in this chapter.

(b) *Design and materials.*(1) *Mixed-use and nonresidential development.*

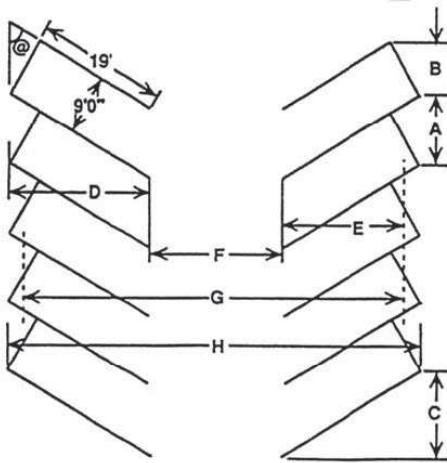
- a. Except as provided in this chapter, off-street parking spaces shall be surfaced with one of the following materials:
 - (i) A minimum of two inches of asphalt over a four-inch gravel base;
 - (ii) Five inches of concrete;
 - (iii) Interlocking paver stones of strength equal to five inches of concrete and designed for vehicular use; or
 - (iv) An alternative surface treatment which exhibits similar structural and maintenance characteristics as that of the requirements of this subsection, and approved by the planning and development director.
- b. All parking areas shall provide concrete curb and gutter that meets the city engineering specifications.
- c. All surfacing shall be over an approved compacted subgrade and shall be graded so as to eliminate drainage problems.
- d. Parking or storage areas used exclusively for heavy construction equipment, such as track-loaders, cranes, bulldozers, road graders, track-hoes and other similar large heavy construction machinery or machinery with steel-track propulsion, may be surfaced with a compacted granular material or gravel of sufficient depth to prevent mud or silt from leaving the site. These parking areas shall be enclosed with a solid fence, no less than six feet in height.
- e. Each space shall be equipped with wheel guards when necessary to prevent vehicles from extending beyond the boundary of the space, and from coming in contact with other vehicles, walls, fences or plantings. In addition to wheel guards, any abrupt change in elevation, at a height of 18 inches or greater, shall require the provision and installation of guard rails in compliance with this chapter.

(2) *Residential development.* Parking areas as required for dwellings, including driveways, shall be surfaced with one of the following materials:

- a. A minimum of two inches of asphalt;
- b. Four inches of concrete; or
- c. Interlocking paver stones of strength equal to four inches of concrete and designed for vehicular use.
- d. All surfacing shall be over an approved compacted subgrade and shall be graded so as to eliminate drainage problems.

(c) *Parking lot lighting.* Lighting provided for off-street parking spaces shall be so arranged so as to minimize illumination onto adjoining residential property, not be in conflict with landscaping and other vegetation, and so as to prevent glare directed at vehicles on streets and alleys.

(d) *Off-street parking design and dimensional tables.* Internal stall and driveway layout shall conform to the following standards:

(1) *Full-sized cars.***Fig. 94-88.A: Layout and Dimensions for Full-Size Car****Table 94-88.1: Full-Size Car, 9 feet by 19 feet**

At Parking Angle (degrees)	A Curb Length per Car (feet)	B Curb Length Short Dimension (feet)	C Curb Length Long Dimension (feet)	D Stall to Back Rows (feet)	E Stall to Curb (feet)	F Aisle Width (feet)	G Back to Back Rows (feet)	H Total Width (feet)
0	23.0'	0.0'	23.0'	9.0'	9.0'	12.0'	30.0'	30.0'
20 [1]	26.3'	3.1'	17.9'	15.0'	10.8'	11.0'	32.5'	41.0'
30 [1]	13.0'	4.5'	16.5'	17.3'	13.4'	11.0'	37.8'	45.6'
40 [1]	14.0'	5.8'	14.6'	19.1'	15.7'	12.0'	43.3'	50.2'
45	12.7'	6.4'	13.4'	19.8'	16.6'	13.0'	46.2'	52.6'
50	11.7'	6.9'	12.2'	20.4'	17.5'	12.0'	47.0'	52.8'
60	10.4'	7.8'	9.5'	21.0'	18.8'	18.0'	55.5'	60.0'
70	9.6'	8.5'	6.5'	21.0'	19.5'	19.0'	57.9'	61.0'
90	9.0'	9.0'	0.0'	19.0'	19.0'	23.0'	61.0'	61.0'

Notes: [1] Must be approved by public works director

(2) *Compact cars.*

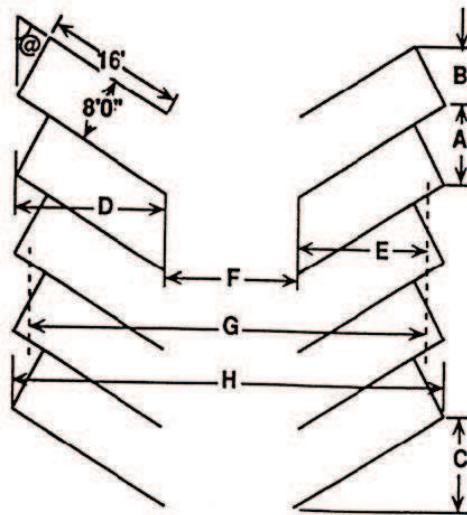


Fig. 94-88.B: Layout and Dimensions for Compact Car

Table 94-88.2: Compact Car, (8 feet by 16 feet)

At Parking Angle (degrees)	A Curb Length per Car (feet)	B Curb Length Short Dimension (feet)	C Curb Length Long Dimension (feet)	D Stall to Back Rows (feet)	E Stall to Curb (feet)	F Aisle Width (feet)	G Back to Back Rows (feet)	H Total Width (feet)
0	21.0'	21.0'	21.0'	8.0'	8.0'	11.0'	27.0'	27.0'
20 [1]	24.0'	3.0'	37.0'	13.0'	9.4'	10.0'	28.8'	36.0'
30 [1]	16.0'	4.8'	26.0'	15.0'	11.5'	10.0'	33.0'	40.0'
40 [1]	12.5'	5.1'	18.8'	16.4'	12.2'	11.0'	37.6'	43.8'
45	11.5'	5.8'	11.5'	17.0'	14.0'	12.0'	40.0'	46.0'
50	10.3'	6.1'	14.8'	17.6'	14.8'	13.0'	40.6'	46.2'
60	9.5'	7.0'	10.0'	18.0'	16.0'	17.0'	49.0'	52.0'
70	9.0'	8.0'	6.6'	18.0'	16.5'	18.0'	51.0'	54.0'
90	8.0'	8.0'	0.0'	16.0'	16.0'	21.0'	53.0'	53.0'

Notes: [1] Must be approved by public works director

(e) *Loading area dimensions, design, and materials.*

- (1) Each off-street loading space shall be at least 53 feet in length and ten feet in width, and shall be unobstructed from the surface up to a height of at least 15 feet.
- (2) Off-street loading spaces shall be surfaced with either:
 - a. A minimum of two inches of asphalt over a four-inch gravel base; or
 - b. Six inches of concrete.
- (3) All surfacing shall be over an approved compacted subgrade, and shall be graded so as to eliminate drainage problems. Each space shall be equipped with wheel guards when, in the opinion of the public works director, they are necessary to prevent vehicles from extending

beyond the boundary of this space and from coming into contact with other vehicles, walls, fences or plantings. In addition to wheel guards, any abrupt change in elevation, at a height of 18 inches or greater, shall require the provision and installation of guard rails in compliance with this chapter.

- (4) Lighting provided for off-street loading spaces shall be so arranged so as to minimize illumination onto adjoining residential property, and so as to prevent glare directed at vehicles on streets and alleys.
- (5) Off-street loading spaces shall be located in such a way that no part of the vehicle will occupy an adjacent street or sidewalk, when the spaces are being used to load or unload a vehicle.

(f) *Completion.*

- (1) All parking lot surfacing and striping shall be completed in accordance with this section prior to issuance of the certificate of occupancy. If seasonal limitations prevent completion and, if security as described in this subsection is provided, a temporary certificate of occupancy may be issued by the planning and development director.
- (2) Security in the form of cash, a performance bond, cashier's check or irrevocable letter of credit acceptable to the city equal to the cost of the parking lot surfacing and striping shall be provided by the permittee prior to issuance of the certificate of occupancy. Upon completion of the parking lot surfacing and striping, and with final approval by the planning and development director, the security will be returned to the permittee. In addition, the permittee shall be required to provide a construction easement, in a form acceptable to the public works director, prior to issuance of certificate of occupancy. Should the permittee fail to complete, by the date required upon the temporary certificate of occupancy, the parking lot surfacing and striping as required by the plan submitted and approved, the city may use said security to complete the parking lot surfacing and striping as required by the plan or revoke the temporary certificate of occupancy, or both. Any excess funds from the security not used to complete the parking lot surfing and striping shall be returned to the permittee.

(g) *Failure to comply.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, resurface or restripe any off-street parking lot or facility regulated by this chapter, or cause same to be done in a manner that is in conflict with, or in violation of any of the provisions of this chapter, or without first obtaining a permit from the planning and development department.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0071, § 2, 6-11-2019; Ord. No. 2021-0101, § 2, 9-14-2021)

Secs. 94-89—94-99. Reserved.

ARTICLE VII. LANDSCAPING AND SCREENING

Sec. 94-100. Landscaping.

- (a) *Purposes.* The purposes of the landscaping provisions are:
 - (1) To provide visual appeal to buildings and paved areas through the use of trees, shrubs, and plants;
 - (2) To ensure the numerous economic, social, health, and communal benefits provided to the built environment and community through the establishment of landscaping and tree standards;

- (3) To encourage the conservation of established native forest, woodland, glade, prairie, wetland, and other natural communities within a project or development site, and to be properly protected during construction;
- (4) To encourage the replanting of trees and vegetation lost to land development activity;
- (5) To preserve healthy environmental conditions by providing shade, air purification and oxygen generation, groundwater recharge, stormwater runoff retardation, water quality treatment, and noise, glare, and heat abatement through the preservation of areas of native forest and installation of landscaping;
- (6) To improve the quality of plant and tree selection through the implementation of landscape standards and specifications;
- (7) To increase the longevity of trees and other perennial vegetation;
- (8) To promote tree species diversity and the planting of locally native vegetation;
- (9) To buffer uncomplimentary land uses; and
- (10) To require timely replacement of landscape components lost after installation.

(b) *Applicability.*

- (1) *General applicability.* The provisions of this section are applicable to the following development types:

Table 94-100.1: Landscaping Applicability

Landscape Type	Section	Single- and Two-Family	Multifamily	Commercial	Industrial
Minimum landscape area	94-101(a)	✓	✓	✓	✓
Buffering	94-101(b)	✓	✓	✓	✓
Street frontage landscaping	94-101(c)	✓	✓	✓	✓
Parking lot landscaping	94-101(d)	—	✓	✓	✓
Screening	94-104	✓	✓	✓	✓

(2) *Credits and exemptions.*

- a. In subdivisions where some or all of the requirements of this article have been met by the original developer, credit shall be extended for such improvements, on a pro rata basis, to each parcel within the subdivision. Requests for credit shall be identified in the landscape plan and shall identify the landscaping improvements that qualify the parcel for credit.
- b. Public road right-of-way and utility easements are exempt from the provisions of this article.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-101. Required landscaping.

(a) *Minimum landscape area.* The minimum landscape area is measured as follows: Required percent landscaped area × (lot area - primary building and use footprint). For the purposes of this section, use footprint shall include any outdoor storage, display areas, and off-street parking areas.

- (1) *Single- and two-family residential landscaping.* The landscaped area shall consist of at least 75 percent living, organic material unless otherwise approved by the planning and development director.

(2) *Multifamily, mixed use, and non-residential development.*

- a. Multifamily, mixed-use, and commercial developments, unless zoned Downtown, shall have a minimum landscaped area of 20 percent of the parcel unless otherwise approved by the planning and development director.
- b. Industrial development shall have a minimum landscaped area of 15 percent of the parcel.
- c. Vegetation should be planted adjacent to any solid wall or other screening to soften the effect of the wall or screening, and to deter graffiti.

(b) *Buffering.*(1) *Between adjacent zone districts.*

- a. Buffering through site perimeter landscaping shall be provided for all new development that is not separated by a public road as follows:

Table 94-101.1: Required Buffering

District of Proposed Development	Required Level of Buffering					
	A, CON	LDR	MDR, HDR	MU, NC, D	CC, ENT, BUS	I, Arterial Street
A, CON	—	—	—	—	—	—
LDR	—	—	L1	L2	L3	L4
MDR, HDR	—	L1	—	L2	L2	L3
MU, NC, D	—	L2	L2	—	L2	L3
CC, ENT, BUS	—	L3	L2	L2	—	L2
I, Arterial Street	—	L4	L3	L3	L2	—
Non-residential structure in SF zone	—	L2	L2	L1	L2	L4

- b. In any area where site perimeter landscaping is required according to Table 94-101.1, the required landscaping shall be provided as follows:

Table 94-101.2: Specifications for Buffering

Requirement	LI Edge Treatment	L2 Buffer	L3 Separation	L4 Screening [1]
Planting area width (min. avg., ft)	10	25	50	75
Planting area width (min. avg. at any point)	8	12	25	50
Total landscape units (LU) required [2] (per linear foot of property line or street frontage)	0.30 LU per lin. ft.	0.50 LU per lin. ft.	1.1 LU per lin. ft.	2.2 LU per lin. ft.
Min. landscape units in trees	none	0.25 LU per linear ft.	0.60 LU per linear ft.	1.5 LU per linear ft.
Min. landscape units in shrubs	0.20 LU per linear ft., either hedge or fence	0.05 LU per linear ft.	0.10 LU per linear ft.	0.15 LU per linear ft.
Notes: [1] Existing, locally native vegetation in any required L4 Screening site perimeter landscaping area shall not be disturbed. If necessary, additional landscaping shall be provided if that vegetation does not meet the standards for L4 Screening. If existing vegetation is disturbed to achieve the screening standard through supplemental plantings, it shall be restored. [2] Landscape unit conversions are provided in Table 94-101.3.				

- c. The amount of landscaping required in Table 94-101.2 is measured per linear foot of property line. Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required.

- d. The landscape area width is measured from the property line inward.
- (2) *Additional standards for commercial districts.* Where new development abuts areas of open space, a transitional landscaped edge shall be used to create a gradual, more natural transition between the open space and the new development.
- (3) *Additional standards for industrial districts.* Where new development adjoins areas of open space, a transitional landscaped edge shall be used to create a gradual, more natural transition between the open space and the new development.
- (4) *Calculation of landscape units.* Required landscaping is calculated in landscaping units (LU). The following table identifies the landscape units awarded for various planted or preserved landscape materials.

Table 94-101.3: Landscaping Units

Landscape Material	Landscape Units Awarded			
	Newly Installed (caliper)	Existing Retained (diameter)		
Deciduous Trees:				
Greater than 8"	n/a	14		
From 4" to 8"	n/a	11		
From 2.5" to 4"	7	9		
From 1.5" to 2.5" or multi-stem	4	4		
Qualifying Trees		See Table 94-59.5		
Evergreen Trees, Height:				
Greater than 10'	8	14		
From 8' to 10'	8	11		
From 6' to 8'	6	9		
Qualifying Trees		See Table 94-59.5		
Shrubs, Ground Cover:				
Perennials/ground cover	Units per square foot (see general standards for sizes)			
Annual flower bed	1 per 500			
Lawn grass	1 per 500			
Earthen berm, minimum 18" high	1 per 1,000			
Earthen berm, minimum 18" high	0.05 per linear foot			
Hardscape Materials:				
Split rail fence	0.20 per lineal foot			
Screening fence (opaque)	0.40 per lineal foot			
Shredded bark	1 per 500 sq. ft.			
Ornamental pavers	1 per 250 sq. ft.			
Landscape boulders, 3 feet or greater in height	1 per boulder			
Seating	0.40 per linear foot			
Landscape lighting, sculpture, art, water feature, sheltering structure	As determined by planning and development director			

- a. *Bonus calculations.* Bonus LU points may be awarded for landscaping that meets the following standard:

Table 94-101.4 Bonus Calculations

Retained Existing Vegetation Mass	Bonus Landscaping Units Awarded (%)
Trees of exceptional quality due to size, large canopy cover, trunk diameter, rareness, age, or species	10
300+ square feet with a minimum of 3 deciduous trees (4" caliper or greater), 3 evergreen trees (minimum six feet high) or any combination thereof	15
500+ square feet with a minimum of 5 deciduous trees (4" caliper or greater), 5 evergreen trees (minimum six feet high) or any combination thereof	20
800+ square feet with a minimum of 8 deciduous trees (4" caliper or greater), 8 evergreen trees (minimum six feet high) or any combination thereof	25

b. Bonus calculation standards.

- (i) Points awarded for retained vegetation in perimeter buffers may only be applied in the buffer area along the same lot line or street frontage where the vegetation is found.
- (ii) Any trees preserved on a site in required landscaping areas that meet the specifications in this section, and are not identified on the city's plant list may, at the discretion of the planning and development director, be credited toward meeting the tree requirements of any landscaping provision of this article.
- (iii) Any tree for which credit is given shall be in a condition that encourages long-term survival and in a location that conforms to the intent and standards of this section.
- (iv) Existing trees that are preserved and receive credit shall be marked on the landscape plan and the amount of credit shall be indicated. Any trees which receive credit and are later removed shall be replaced with the number of trees for which credit was received.
- (v) A site plan must be submitted and approved identifying the areas to be protected, and measures to protect areas from damage during construction as outlined in this article, will be required to be approved by the planning and development director.

(c) *Street frontage landscaping.*

- (1) Single- and two-family residential landscaping. Two canopy trees, a minimum of one and a half inch caliper, per dwelling unit on the parcel shall be located within the entirety of the front setback between the building line and the property line unless otherwise approved by the planning and development director.
- (2) Multifamily, mixed use, and non-residential development. Unless no front setback is required, one canopy tree shall be planted per 50 linear feet of street frontage adjacent to the right-of-way.
- (3) No tree shall be planted within ten feet of any fireplug.
- (4) No tree shall be planted under, or within 25 feet of any overhead utility wire, and the mature height and spread shall be considered to ensure that the species will not interfere with overhead utilities.
- (5) No tree shall be planted within an intersection clear sight triangle, and the mature height and spread shall be considered to ensure that the species will not interfere with the visibility of drivers approaching an intersection between two streets.
- (6) If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining site perimeter landscaping area. Driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required.

- (d) *Parking lot landscaping.*
- (1) *Internal landscape islands.* Landscape islands shall be installed for every row exceeding ten parking spaces, either within the parking row or at the end of the parking row, and shall be designed as follows:
- a. Be a minimum of ten feet in width;
 - b. Be at least 300 square feet;
 - c. Have a minimum of one canopy tree that is a minimum of 1½-inch caliper, and centrally located within the island;
 - d. Contain at least 1,000 cubic feet of loamy topsoil per canopy tree, or 800 cubic feet of loamy topsoil per tree for two or more canopy trees;
 - e. Allow for runoff capture using curb cuts and approved bioswale designs;
 - f. Contain only organic materials such as mulch and other living plant material(s) unless an approved sidewalk is included; and,
 - g. Internal landscape strips shall be installed between the parking rows of every other double row of parking when parking rows exceed 50 parking spaces, and shall meet the following standards:
 - (i) Be a minimum of 12 feet in width, and shall extend the length of the parking row;
 - (ii) Include a six-foot wide sidewalk, and a six-foot wide planting strip;
 - (iii) Meet planting requirements for interior landscape islands, as outlined above; and,
 - (iv) Allow for runoff capture using curb cuts and approved bioswale designs.
- (2) *Sight triangle.* A site triangle within the off-street parking area must be established at street intersections by maintaining a maximum height for any shrubs and ground cover of 30 inches. No obstructions are permitted in the site triangle, including tree branches that must be trimmed within eight feet of the ground. All applicable sight distance requirements must be met for parking lot internal circulation and access points to the public right-of-way.
- (3) *Curbs.* Landscaped areas within parking lots, or along the perimeter of the property, must be protected from vehicular traffic through the use of permanent barriers. Barriers can be made of concrete curbs, large stones, bollards, or other rigid, permanent systems, not including asphalt curbs. If the barriers are continuous, adequate breaks, as approved by the public works director, shall be designed to allow runoff inflows to enter the landscape area while still providing adequate protection from traffic.
- (4) *Perimeter landscaping.*
- a. The following landscaping requirements shall be met for all off-street surface parking lots, except those in the D and ENT Districts:
 - (i) Perimeter parking lot landscaping a minimum width of ten feet shall be required for all parking lots having more than three spaces where the parking lot is adjacent to a public street.
 - (ii) The parking lot perimeter landscaping shall include one canopy tree per 50 linear feet of landscape area. Where the calculation of the number of trees results in a fraction, the number shall be rounded up to the nearest whole number. The remainder of the landscape area shall be grass, ground cover, shrubs, or ornamental grasses. No more than 20 percent of the landscape area shall be mulch, decorative rocks, or other nonliving materials. The use of concrete is not permitted in the landscape area.

- (iii) Where lots are being developed in a Mixed-Use District, the parking lot perimeter landscaping requirement may be reduced along an interior lot line, at the discretion of the planning and development director, provided that interior parking lot landscaping applies to both parking lots.
- b. The following landscaping requirements shall be met for all off-street surface parking lots in the D and ENT Districts that abuts a public street, public alley, or lot used for detached residential dwellings:
 - (i) The boundary shall be landscaped or screened according to one of the following options:
 1. A minimum ten-foot-wide planting strip containing a low, continuous hedge a minimum of 30 inches tall at installation consisting of a double row of shrubs or ornamental grasses planted a minimum of three feet on-center in a triangular pattern. Where the common boundary line is greater than 50 feet, one canopy tree shall be planted per 50 linear feet along the common boundary line; or
 2. A minimum five-foot-wide planting strip containing a single row of shrubs or ornamental grasses planted a minimum of three feet on-center combined with a minimum three-foot-high ornamental metal fence or masonry wall of materials compatible with the primary structure.
 - (ii) As applicable, landscaping materials shall be planted on the side of the fence or wall closest to the street, alley, or residential property.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2020-0083, § 2, 8-11-2020; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-102. General standards for landscaping materials and installation.

(a) *Plant materials list.* The city shall maintain a suggested and prohibited plant list as necessary to identify plant material requirements or prohibitions within the city. Where a species is chosen for a landscape plan that is not identified on a city plant list, the applicant shall provide information about growth and spacing characteristics on the landscape plan. Plant information shall be taken from objective sources, including professional landscape organization websites or nursery cut sheets. Plant materials identified in any prohibited plant list may not be used in landscaping.

(b) *Quality.* All trees and shrubs used for landscaping shall have well-developed leaders, tops, and roots characteristic of the species, cultivar, or variety per American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the office of the city clerk, and shall show evidence of proper nursery pruning per the same standard. All plant materials must be free of insects, diseases, mechanical injuries, and other objectionable features at the time of planting.

(c) *Coverage.*

- (1) Grass, ground cover, shrubs, and other living landscape materials shall be used to cover at least 75 percent of open ground.
 - a. Open ground includes all fill slopes and hillsides, regardless of the angle of the slope.
 - b. Open ground also includes all fill rock and shot rock slopes that must be covered with an appropriate depth of soil to allow for the healthy growth of the coverage.
 - c. Landscaping materials such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate, and can be used to cover up to 25 percent of open ground.

- (2) No area required to be landscaped shall include any artificial trees, plants, or turf; impervious surfacing other than required sidewalks; or any carpeting designed as a visual substitute for lawn or other groundcover.
 - (3) Areas devoted to pasture, farm crops, or undeveloped areas of a parcel shall not be considered landscaped for the purpose of fulfilling any landscape requirements.
- (d) *Trees.* Trees used for landscaping shall be a species common to, or adapted to this area of the state, and not identified as prohibited on any city plant list. Trees shall have the following characteristics:
- (1) Size.
 - a. Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of at least 1½ inches at time of planting.

- b. Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of at least one inch at time of planting.
 - c. Evergreen trees shall have a minimum height of 20 feet at maturity. All evergreen trees shall be at least four feet in height at time of planting.
 - d. Street trees shall be canopy trees and shall have a minimum caliper of 1½ inches unless approved by the planning and development director.
- (2) All trees shall conform to the American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the office of the city clerk.
- (e) *Shrubs, hedges, and ornamental grasses.*
- (1) Shrubs and ornamental grasses shall be a minimum of 18 inches in height at time of planting.
 - (2) Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be at least three feet in height within one year after time of planting.
- (f) *Ground cover, perennials, and annual planting areas.* Ground covers, perennials, and annual planting areas used in lieu of grass in whole, and in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year after time of planting.
- (g) *Lawn grass.* Grass areas may be sodded, plugged, sprigged, or seeded, except that sod or other erosion control products shall be used in swales, berms, or other areas subject to erosion as defined in this chapter.
- (h) *Irrigation.* Where a property owner or tenant opts to install an in-ground irrigation system, the following standards shall apply:
- (1) The landscape plan shall identify the area of approximate installation of an automatic irrigation system, its maintenance, and intended uses. The landscape plan must note and delineate all irrigated and sod areas.
 - (2) Irrigation systems must be installed prior to plant materials.
 - (3) Smart controllers with rain sensors (e.g., weather-based controllers that limit irrigation if raining) shall be installed on all irrigation systems.
 - (4) Low-flow irrigation devices shall be used in all narrow or irregularly shaped landscape areas less than eight feet wide in any direction to avoid overspray and runoff.
 - (5) Irrigation systems with a precipitation rate exceeding 0.75 inches per hour shall be prohibited on areas exceeding 1,000 square feet with a slope greater than 30 percent unless: (1) infiltration trenches, vegetated swales, stormwater treatment and storage areas, and similar facilities as approved by the city are employed to reduce runoff, or (2) the landscape designer specifies an alternative design or technology that clearly demonstrates to the city's satisfaction no runoff or erosion will occur. Prevention of runoff and erosion must be confirmed during the final landscape inspection.
- (i) *Fences.*
- (1) Fences or walls within the front yard of any residential lot shall not exceed three feet in height and shall be at least 50 percent open.
 - (2) Fences or walls within the side or rear yard of any residential lot shall not exceed seven feet in height.

- (3) The use of barbed wire, scrap metal, tarps, pallets, or other non-fencing materials are not permitted within any residential lot.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2020-0083, § 2, 8-11-2020)

Sec. 94-103. Landscape maintenance.

(a) The property owner and successive owners and agents shall be responsible for maintaining, in a neat and orderly manner at all time, the site landscaping as approved in the landscaping plan. Plant materials shall be maintained in a healthy and growing condition that is appropriate for the season of the year. Plant materials that die, or have significant damage, shall be replaced within the next planting season with healthy plant material of similar variety and meeting the size requirements of this chapter.

(b) Should landscaping not be installed, maintained, and replaced as needed to comply with the approved plan and the American National Standards Institute (ANSI) publication A300, a copy of which is on file in the office of the city clerk, the owner or owner's agent shall be considered in violation of the terms of the permit and this article.

(c) The city shall have the right to request any tree on private property that has severe structural defects or splits to be removed. The city will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees, and shall be accomplished within time limits set by the city.

(d) Trees shall not be topped. Tree pruning and safety shall comply with the American National Standards Institute (ANSI) publication A300, Part 1, a copy of which is on file in the office of the city clerk.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-104. Public tree care.

(a) The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds as may be necessary to ensure the public safety, or to facilitate the tree management program.

(b) The city may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature, is injurious to electric power lines or other public improvements, or is seriously affected with any fatal disease.

(c) The city shall not top trees. Tree pruning and safety shall comply with the American National Standards Institute (ANSI) publication A300, Part 1, a copy of which is on file in the office of the city clerk.

(d) Damaging trees or shrubs in public places. Any person who shall cut, deface, damage, drive nails in or nail signs on, or in any manner damage or interfere with the growth of any tree or shrub in or on any street, alley, public place, or park in the city, shall be in violation of this article.

(Ord. No. 2019-0130, § 2, 9-24-2019)

Sec. 94-105. Utility and service area screening.

(a) *Single-family residential.* To the maximum extent practicable, utility equipment on residential lots shall be located behind the front building line of the house and screened from public view by an opaque wall, fence, or landscaping screen. Alternative locations may be approved by the planning and development director to allow for the retention of existing trees on wooded sites.

(b) *Multifamily and non-residential.*(1) *Screening generally.*

- a. *Site screening.* All multiple-family residential projects, manufactured and mobile home parks, and all mixed-use and non-residential projects shall include on the landscape plan, a detailed drawing of enclosure and screening methods to be used in connection with trash bins, recycle bins, storage yards, service areas, loading docks, and equipment areas on the property.
- b. *Visual screening.* Structures shall be designed and screened so that windows and decks do not overlook neighboring residential properties in a manner that intrudes on privacy.

(2) *Mechanical equipment.*

- a. *Applicability.* The standards of this section shall apply to all of the following:

- (i) Electrical and gas-powered mechanical equipment;
- (ii) Ductwork and major plumbing lines used to heat, cool, or ventilate; and
- (iii) Power systems for the building or site upon which the equipment is located.

Roof or wall-mounted antennas and vent openings shall not be considered mechanical equipment for purposes of these screening standards. The standards of this section are not intended to apply to solar arrays, solar energy collection systems, or small wind energy systems, if such systems are otherwise in compliance with applicable building codes and development standards requirements.

- b. *Screening standards.*

- (i) *Roof-mounted mechanical equipment.* Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to, or greater than the height of the mechanical equipment being screened. Roof-mounted mechanical equipment, except solar energy collection systems, is prohibited on single-family residential dwellings.
- (ii) *Wall-mounted mechanical equipment.* Wall-mounted mechanical equipment, except air conditioning equipment (e.g., window AC units), that protrudes more than six inches from the outer building wall shall be screened from view by structural features that are compatible with the architecture of the subject building. Wall-mounted mechanical equipment that protrudes six inches or less from the outer building wall shall be designed to blend with the color and architectural design of the subject building.
- (iii) *Ground-mounted mechanical equipment.* Ground-mounted mechanical equipment shall be screened from view by landscaping, a fence, or a decorative wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the mechanical equipment being screened.
- (iv) *Manufactured engineered non-residential unit (MENU).* Manufactured engineered non-residential units shall be screened from view by a combination of landscaping, an opaque fence, or a decorative wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the MENU being screened. Chain link fencing is not a permitted as a screening method. On a case by case basis, a line-of-sight analysis can be submitted to assess

the visual impact of the MENU on the surrounding environment. The line-of-sight analysis can consider, but not be limited to: terrain, obstructions, vegetation, buildings, and other objects.

- (v) *Alternate screening.* Alternate screening methods that meet the intent of this section may be approved by the planning and development director. Alternative screening might include, but shall not be limited to, increased setbacks, increased landscaping, grouping the equipment on specific portions of a site, architectural elements, and painting or otherwise causing the equipment to blend with the site or structure.

(3) *Service, loading, and storage areas.*

- a. *Applicability.* These screening requirements are applicable to all service, loading, and storage areas. Applicants are encouraged to locate the types of features listed in this subsection where they are not visible from off-site, or from public areas of a site, so that screening is unnecessary.

b. *Placement.*

- (i) All service areas shall be placed at the rear, on the side of, or inside buildings.
- (ii) No service area shall be visible from a public right-of-way, or from adjacent residential areas.
- (iii) Service areas and access drives shall be located so they do not interfere with the normal activities of building occupants or visitors on driveways, walkways, in parking areas, or at entries.

c. *Outside storage areas and loading docks.*

- (i) All storage areas, service areas, and loading docks visible from any public street right-of-way must be screened according to one or more of the screening options provided in these standards. Property zoned industrial must also screen from view, all outside storage areas that are adjacent to, or can be seen from non-industrial zoned property.
- (ii) Screening shall be a minimum height of eight feet to screen truck berths, loading docks, areas designated for permanent parking, or storage of heavy vehicles, equipment, or materials.
- (iii) Screening shall be long enough to screen the maximum size trailer that can be accommodated on site. Sites that can accommodate a full-size tractor-trailer shall provide a 48-foot wing wall, where wing walls are used.

(4) *Shopping cart storage.* All shopping carts shall be stored inside the building they serve. Shopping cart corrals shall be made of a material suitable for withstanding weathering and rusting.

(c) *Materials and design.*

(1) *Specific screen types design requirements.*

- a. *Berm screens.* Berm screens shall not exceed a slope steeper than 2½ feet horizontal to one foot vertical. A berm shall be so designed that drainage from said slope shall be directed away from paved areas and sidewalks, and shall be sodded and landscaped as necessary to provide topsoil stabilization. Berms shall not exceed eight feet in height.
- b. *Open fence screens.* Open fences shall be not less than six feet in height, nor more than eight feet.

- c. *Solid fence screens.* Solid fences shall not be less than six feet in height, nor more than eight feet, and shall be constructed of wood or other approved materials.
 - d. *Retaining wall screens.*
 - (i) A retaining wall that directly abuts and faces a residential zoning district shall not have an exposed wall face greater than eight feet in height. Where more than one eight-foot retaining wall is needed, there shall be at least a three-foot offset between wall faces containing landscaping.
 - (ii) A retaining wall that directly abuts and faces any zoning district other than residential, shall not have an exposed wall face greater than 12 feet in height. Where more than one 12-foot retaining wall is needed, there shall be at least a four-foot off-set between wall faces containing landscaping.
 - (iii) When special property conditions exist that make it unfeasible to meet these requirements, applicants may present alternative recommendations to the planning and development director for consideration. No permit for any alternative method shall be issued without final approval from the planning and development director.
 - e. *Wall screens.* A wall screen shall be not less than six feet in height, nor more than eight feet.
- (2) *Screen design.*
- a. *Height.* Where there is a difference in elevation on opposite sides of the screen within ten feet of the screen, the height shall be measured from the highest elevation.
 - b. *Sight triangle.* On a corner parcel in any district, no planting, berm, fence, or wall shall be placed in such a manner as to impede vision within the intersection clear sight triangle as shown in the city design criteria for public improvement projects.
 - c. *Existing screening.* No existing screening or landscape buffer shall be removed from any developed or undeveloped commercial property which directly abuts a residentially zoned property without first submitting and obtaining approval for a landscaping plan which provides for replacement screening conforming to all provisions of this section.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0130, § 2, 9-24-2019; Ord. No. 2024-0071, § 2, 8-13-2024)

Editor's note—Formerly codified as § 94-104. Ord. No. 2019-0130 added new provisions as § 94-104 therefore existing §§ 94-104 and 94-105 have been renumbered as §§ 94-105 and 94-106, accordingly.

Sec. 94-106. Enforcement.

(a) *Access to private property.* It shall be unlawful for any person to prevent, delay, or interfere with access to private property by the city or its representative in the legal performance of any section of this article.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0130, § 2, 9-24-2019)

Editor's note—Formerly codified as § 94-104. See editors note under § 94-105.

Secs. 94-107—94-109. Reserved.

ARTICLE VIII. RIPARIAN BUFFERS

Sec. 94-110. Riparian buffers established.

(a) The following buffers are established by the mapped floodplain area, or from the mean annual high water line (AHWL), as determined by the public works director, on each side of any perennial stream or river, water body, or wetland.

(b) Classifications of surface waters as perennial or intermittent streams, or as a lake or pond, shall be as indicated on the most recent version of the United States Geological Survey (USGS) 1:24,000 (7.5 minute) scale topographic maps, or the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA). If there exists a discrepancy between these maps that would affect a required buffer, the classification requiring the most stringent buffer shall be applied.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-111. Riparian protection buffer.

(a) *Intent.* The riparian protection buffer is intended to protect the habitat, wetland, slopes, stream integrity, and features in the immediate vicinity of riparian areas. These areas are typically ecologically rich but sensitive habitats that also serve as critical buffers to sedimentation.

(b) *Minimum total width.* The minimum total width of the riparian protection buffer shall be the width of the mapped floodplain, or where the floodplain is not mapped or is narrower than 100 feet, 100 feet from the AHWL on both sides. On residential properties, the minimum width of the riparian protection buffer may be reduced to 50 feet in some locations where the floodplain in that area is less than 50 feet wide, and if an average setback of 100 hundred feet is maintained across the property as a whole.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-112. Riparian protection buffer zones.

(a) The riparian protection buffer area shall be divided into two zones as described below:

(1) *No disturbance zone - Zone 1.*

a. Zone 1 shall begin at each edge of any identified riparian area, and shall occupy a margin of land on each side, each with a minimum width of 25 feet from any wetland, water body,

perennial stream, or intermittent stream. Where very steep slopes, 30 percent or greater, are located within, and extend beyond such margin, Zone 1 shall extend to include the entirety of the very steep slopes up to a maximum dimension of 100 feet.

- b. No disturbance of land shall be allowed within Zone 1 including, but not limited to, dumping, filling, dredging, new construction, excavating, substantial improvements or modifications, scraping by motorized equipment, removal of native vegetation or root systems, or transferring materials that will reduce the natural storage capacity of the land, interfere with the natural flow pattern of any watercourse, or degrade the quality of surface or ground water. Limited exceptions to these restrictions include:
 - (i) Flood control structures;
 - (ii) Stream restoration practices;
 - (iii) Selected removal of dead, hazardous, or invasive vegetation or vegetation management in accordance with an approved landscape plan;
 - (iv) Utility rights-of-way and construction;
 - (v) Recreation uses with the approval of the planning and development director;
 - (vi) Unpaved pedestrian trails; and,
 - (vii) Roads where no economically feasible alternative exists.

(2) *Riparian transition buffer - Zone 2.*

- a. Zone 2 provides for limited uses in a buffer between development and Zone 1. It also provides separation between areas of intense human use and riparian features associated with intermittent or ephemeral streams.
- b. The minimum width of Zone 2 for wetlands, waterbodies, perennial streams, or intermittent streams shall be from the edge of Zone 1 to the limit of the mapped floodplain.
- c. No significant disturbance of land outside of the buildable area of a property shall be allowed within Zone 2 buffers including, but not limited to, dumping, filling, dredging, excavating, scraping by motorized equipment, removal of native vegetation or root systems, or transferring materials that will reduce the natural storage capacity of the land or interfere with the natural flow pattern of any watercourse or degrade the quality of surface or ground water. The following structures, uses, and activities are permitted in the riparian transition buffer:
 - (i) Any use permitted in the Zone 1 buffer;
 - (ii) Non-agricultural open fencing;
 - (iii) Biking or hiking trails; and,
 - (iv) Stormwater management facilities with the approval of the public works director.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Secs. 94-113, 94-114. Reserved.

ARTICLE IX. SUBDIVISIONS

Sec. 94-115. Applicability.

- (a) It is unlawful for any person to subdivide land within the city without having first complied with the provisions of these regulations.

(b) The standards in this chapter shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, altering of any parcel of land into two or more parcels, or other divisions of land, except any subdivisions that are specifically excluded by state law or are defined as minor subdivisions. However, unless the method of disposition is adopted for the purpose of evading the requirements of these regulations, this procedure shall not apply to any division of land that:

- (1) Is created by any transfer by operation of law;
- (2) Creates cemetery lots;
- (3) Creates an interest or interests in oil, gas, minerals, or water that are severed from the surface ownership of real property;
- (4) Is created by the acquisition of an interest in land in the name of spouses or other persons in joint tenancy, or as tenants in common of such interest. For the purpose of this paragraph, any interest owned in joint tenancy shall be considered a single interest; or
- (5) Creates a leasehold interest with a term of less than 20 years, and involves no change in use or degree of use of the leasehold estate.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-116. Purposes.

The purposes of these regulations include, but are not limited to the following:

- (1) Protect the health, safety, and general welfare of the city;
- (2) Guide future growth in accordance with the adopted comprehensive plan;
- (3) Ensure the provision of adequate public facilities and services for subdivisions;
- (4) Protect the character, economic, and social stability of the city;
- (5) Establish reasonable standards for orderly layout of subdivided land;
- (6) Prevent the pollution of air, streams, ponds, lakes; assure the adequacy of drainage facilities; safeguard the water table; encourage the wise use and management of natural resources; preserve the integrity, stability, and beauty of the community and value of the land; and
- (7) Preserve the natural beauty and topography of the city, and ensure appropriate development with regard to those natural features.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-117. Subdivision required improvements and design standards.

(a) *Purposes.* The site design must respect and enhance physical and natural qualities of the site, and retain the positive qualities of the existing environment. It should utilize existing topographic features and improvements where feasible, and shall be located to complement and conform to the site's topography rather than changing it to accommodate a preconceived design.

(b) *Manuals and specifications.*

- (1) All improvements required under the provisions of this article shall be constructed in accordance with the design criteria, specifications, and plan requirements of the city as identified in the Code and these regulations, and, where applicable, the requirements and authorization of the appropriate state agency or utility company.
- (2) No applicant shall be relieved of the duty to construct public improvements for the subdivision until all public improvements are constructed, approved, and accepted by the city.

- (3) The applicant shall submit plans, profiles, and specifications for the construction of all public improvements for which no specifications or standards are established by the city. Such plans, profiles, and specifications shall be prepared and authenticated over the seal of a design professional, duly licensed to practice in Missouri.
- (4) The planning and development director may require that a subdivision conform to a phasing schedule based upon the scheduled availability of infrastructure to serve the subdivision. A phasing plan shall be submitted for approval at the time of application for preliminary plat, and made a condition of that approval or subdivision agreement.

(c) *Monuments.* The applicant shall cause a registered land surveyor to install permanent reference points on all perimeter corners of the property. The construction and placement of permanent markers shall conform to the current minimum standards for property boundary surveys, per state statute.

(d) *Streets.*

- (1) The type of pavement which will be accepted and maintained shall be as shown in the Design Criteria for Public Improvement Projects on file in the city clerk's office. All street improvements shall include finish grading of the entire right-of-way.
- (2) Abutting streets shall be improved in accordance with the master street plan where necessary to maintain an acceptable level of service as determined by the public works director. All public streets serving parcels within the city limits shall be extended by the applicant to the boundary line to serve adjacent property. In addition, subdivisions shall be assessed a fee based on the fair share per residential unit to assist in meeting ultimate major street construction costs necessary to serve the development.

(e) *Sidewalks.*

- (1) A Portland cement sidewalk shall be constructed on the north, east, or northeast side of all public streets. Seven-foot-wide sidewalks at a minimum shall be provided along arterial, collector and local streets.
- (2) Sidewalks must be constructed at the time of roadway construction along arterial and collector streets.
- (3) Sidewalks on local streets may be deferred until building permits are issued, provided the developer enters into an agreement with the city providing for the construction of sidewalks on all remaining undeveloped parcels of ground after one year has passed from the date of acceptance of streets in the development by the board. This agreement shall be recorded along with the final plat, and shall be binding upon all heirs, successors, and assigns of the original parties.
 - a. The agreement shall provide that, upon notification by the city to the property owner of record, sidewalks shall be constructed in accordance with city standards within 60 days, weather permitting.
 - b. Should sidewalks not be completed within that time period, the city may proceed with the sidewalk construction and levy a special assessment against the property for the cost thereof as provided by state law.
- (4) In locations where sidewalks are needed along local streets prior to building construction to provide access to parks, bus stops, or other activities normally reached by foot, the public works director will require sidewalks along one side of the local street at the time of roadway construction.

(f) *Storm drainage systems and facilities.*

- (1) *Connection required.* Where a storm drainage system is reasonably accessible, the applicant shall connect with such storm drainage system, do all grading, and provide all drainage structures that are necessary to properly carry the water to locations which are acceptable to the public works director.
- (2) *Stormwater detention.* Stormwater detention facilities, or sedimentation facilities, shall be constructed as required to control off-site drainage impacts.
- (3) *Calculations.* All storm drainage calculations shall be made in accordance with minimum design criteria of the city.
- (4) *Easements.* Drainage easements for storm sewers may be required. Easements for open channel drainage may be required where deemed necessary by the public works director.

(g) *Sanitary sewer systems and facilities.*

- (1) A sanitary sewer system shall be constructed by the applicant in accordance with the requirements of the specifications on file in the office of the public works director.
- (2) Sewers shall be extended to the boundary line to serve adjacent property, except where adjacent property can be served by future sewer extension through dedicated rights-of-way. Such sewers shall be of adequate size to serve the upstream basin.

(h) *Water supply.* A public water system shall be constructed by the applicant in accordance with the specifications on file in the office of the public works director, and water lines shall be constructed to the far property line of the proposed subdivision in all cases.(i) *Utilities.*

- (1) *Power distribution lines.* Power distribution lines shall be installed underground in all subdivisions adjacent to parcels proposed for residential use, except in the case of a subdivision containing five or fewer parcels where overhead lines are in existence on abutting property. Power lines classed as transmission or three-phase feeder need not be placed underground. All such installations shall be in conformance with minimum standards and practices of the power company having jurisdiction.
- (2) *Telephone, cable, and communication lines.* Telephone, fiber-optic cable, or other communication lines shall be installed underground in all subdivisions adjacent to parcels proposed for residential use, except in the case of a subdivision containing five or fewer parcels where overhead telephone lines are in existence on abutting property.

(3) *Easements.*

- a. An easement for utilities, at least five feet wide, shall be provided along each side of a side line of parcels, or the rear line of parcels where necessary to form a continuous right-of-way of at least ten feet in width. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along parcel lines or across parcels.
- b. Utility easements shall connect with easements established in adjoining properties and with easements proposed by official city plans.
- c. Additional easements for pole guys shall be provided at the outside of turns, except where underground utilities are ensured. Where possible, parcel lines shall be arranged to bisect the exterior angle so that pole guys will fall along the side parcel lines.

- d. The design and dimension of easements shall be such that reasonable access by four-wheeled maintenance vehicles is ensured.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-118. Subdivision design standards.

(a) *Lots.*

- (1) The minimum parcel width and area shall be governed by the zoning code.
- (2) Corner parcels for residential use shall be not less than ten feet wider than the average parcel width in the block.
- (3) Side lines of parcels shall be approximately at right angles to street lines, or radial to curved streets and highways.
- (4) Double frontage parcels should be avoided, except where parcels back on major streets and highways.
- (5) Every parcel shall relate to a street with adequate frontage for proper and safe vehicular access.
- (6) Residential parcels shall not face on arterial streets, and should be minimized on collector streets.

(b) *Blocks.* In general, intersecting streets determine block lengths, and shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or customary subdivision practices in the neighborhood. Where no existing plats control block length, the blocks in residential districts shall not exceed 1,320 feet in length. Pedestrian ways and easements through the block may be required to serve nearby public facilities.

(c) *Streets.*

(1) *Coordination with existing street system.*

- a. Arrangement and design of major streets in the subdivision shall conform as nearly as possible to the city's major street plan, and provisions shall be made for the extension of major and secondary thoroughfares.
- b. Except for courts and culs-de-sac, streets shall:
 - (i) Connect with streets already dedicated in adjoining or adjacent subdivisions;
 - (ii) Provide for future connections to adjoining unsubdivided tracts; or
 - (iii) Be reasonable projections of streets in the nearest subdivided tracts.

(2) *Residential streets.* Residential streets shall be designed to discourage their use by nonlocal traffic. Subdivisions shall be designed with an appropriate collector and arterial street system so that no local street carries more than 1,500 average daily trips as determined by appropriate traffic studies. Places, courts, or culs-de-sac may be permitted where topography or other conditions justify their use. A turnaround shall be provided at the closed end with an outside curb radius of at least 40 feet and a right-of-way radius of not less than 50 feet. Such cul-de-sac streets shall not be longer than 500 feet.

(3) *Provision for future streets.* When a tract is subdivided into large parcels that could be subject to future resubdivision, such parcels shall be so arranged as to permit the continuous location and opening of future streets and appropriate replats with provision for adequate utility connections for such replats.

- (4) *Angle of intersection.* Streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angle of intersection of streets generally shall be 60 degrees.
- (5) *Offset at intersections.* Streets entering the opposite sides of a street shall either be directly across from each other or offset a minimum of 250 feet measured from centerline to centerline.
- (6) *Frontage or service streets.* A frontage or service street may be required where frontage along a controlled access street or highway is to be subdivided.
- (7) *Alleys.*
 - a. Alleys shall not be less than 20 feet wide.
 - b. Intersecting alleys shall have corner cutoffs of at least 20 feet on a side.
 - c. Dead-end alleys shall be avoided whenever possible, but, if unavoidable, such dead-end alleys may be approved if adequate turnaround facilities are provided at the closed end.
- (8) *Half streets.* Dedication of half streets will not be approved, except where such dedication will serve the public interest and the improvement of the entire street is ensured.
- (9) *Right-of-way and pavement width.* For all public ways hereafter dedicated and accepted, the minimum right-of-way and pavement widths of streets and pedestrian ways included in any subdivision shall not be less than the minimum dimensions, shall be within the prescribed grade range for each classification, and shall be in accordance with the major street plan.
- (10) *Street design standards.* Street design standards shall be in correct form with the most current version of the Design Criteria For Public Improvement Projects, which is on file in the city clerk's office.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-119. Open space dedication.

- (a) *Purpose.* The purposes of open space dedication and the requirements of this section are to:
 - (1) Preserve land for open space and recreational opportunities, preferably in a natural or semi-natural state, in perpetuity for the enjoyment of residents and visitors;
 - (2) Support the creation of a well-connected, non-vehicular transportation system in order to provide choices for bicyclists and pedestrians;
 - (3) Serve environmental, scenic, and agricultural purposes, and provide habitat for wildlife; and
 - (4) Ensure that dedicated open spaces are located on suitable and unencumbered land that is not leftover, remnant, or otherwise unusable land that was not appropriate for the overall subdivision design.
- (b) *Open space dedication required.*
 - (1) All residential subdivisions shall, as part of the final plat process, dedicate land or an equivalent cash-in-lieu payment for open space for public use. This requirement shall apply to newly platted areas as well as areas that are being replatted. Final determinations as to dedication of land, including location thereof, or acceptance of cash-in-lieu thereof, shall be made by the board, upon recommendation by the park board and planning commission.
 - (2) The provisions of this section are minimum standards. None of the sections previously set out shall be construed as prohibiting an applicant from dedicating or reserving more land for recreational purposes than required by this section.

(c) *Open space shown on preliminary plat.* Land areas proposed for dedication shall be shown on the preliminary plat for consideration by the city as part of the review and approval process. Dimensions, location, and topographic features of the proposed open space shall be shown on the plat to permit a thorough review and determination of the flexibility and usability of the property. Prior to approval of a preliminary plat proposing the dedication of open space, the park board shall review and make a recommendation on the acceptance of the proposed dedication.

(d) *Calculation of required open space.*

(1) *Public open space.* The area of such open space for public use shall be based upon a calculation of the anticipated residential population of the subdivision when fully developed, as follows:

- a. The area/population shall be at the rate of 20 acres of park land per 1,000 persons.
- b. Such population shall be determined on the basis of three persons per family unit for development on single-family and two-family development, and two persons per family unit in other multiple-family areas.

(2) *Private open space.*

a. In some cases, private open space may be provided in a proposed subdivision to meet up to half of this requirement. Such space is to be privately owned and maintained by the future residents of the subdivision and such areas shall be termed as open space reservations. Such reservations of open space shall be subject to the following standards:

- (i) Yards, court areas, setbacks, and other open areas required to be maintained by the Code shall not be included in the computation of such private open space;
- (ii) The private ownership and future maintenance of the open space shall be adequately provided for by written agreement;
- (iii) The use of the private open space shall be restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract, and which cannot be defeated or eliminated without the consent of the city;
- (iv) The proposed private open space shall be reasonably adaptable for use of park and recreational purposes, taking into consideration such factors as shape, topography, geology, access, and location of the private open space land; and
- (v) The open space reservation will be applied toward meeting no more than one-half of the dedication requirements as calculated in this section.

b. In order to ensure that the city is protected from future maintenance of such private open space, a copy of the private restrictions is required for future reference by the city and shall be submitted with the final plat or condominium split application. In cases of condominium units, common elements are as defined in this chapter, and include common land (as in residential development), and other parts of the condominium property necessary or convenient to its existence, maintenance, and safety, or normally in common use and described or provided for in the declaration.

(e) *Location of required open space.* All plats should provide for the dedication of open space at locations designated in the parks and open space element of the comprehensive plan, or any other master plan adopted by the city. Further, the city shall review and evaluate proposed dedication based upon the criteria and standards contained in such document. If a proposed dedication does not meet the criteria and standards, it may be rejected.

(f) *Dedication of land or payment of cash in-lieu of dedication.*

- (1) The dedication of land for public use shall be conveyed by the applicant in fee absolute title by warranty deed to the city. Such land shall be free of liens, special assessments, and other encumbrances, and shall have all taxes paid to the year of dedication. The location of boundaries of such land shall be marked with permanent monuments in accordance with this chapter.
- (2) Payment of cash-in-lieu of such dedication shall be at the rate of \$15,000.00 per acre for required park land based upon acreage requirements as calculated by the formula in this section. If this rate is not acceptable to the applicant, the values per acre shall be determined by an appraiser, agreed upon between the applicant and the city, or, failing such agreement, by a real estate appraiser's commission consisting of one appraiser appointed by the applicant, one appraiser appointed by the city, and a third appraiser to be appointed by previously appointed appraisers, which decision by a majority shall be controlling. Reasonable compensation of the appraisers shall be paid by the applicant. The amount so determined shall be paid prior to approval of the final plat.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Sec. 94-120. Conservation design subdivision.

(a) *Purpose.* The purpose of a conservation design subdivision is to allow the creative design of subdivisions as an alternative to conventional, large-lot subdivisions. The option will allow applicants to design subdivisions creatively to avoid placing residential buildings in floodplain or wetlands, on steep slopes, or within critical wildlife habitats and other environmentally sensitive areas. The option allows residential units to be clustered on small lots while maintaining the allowable density. In turn, the option requires that a portion of the property be set aside as a managed "conservation area" that will have a limited range of allowed uses and activities.

(b) *Applicability.* To be eligible for the conservation design subdivision option, the parcel of land shall be located within either the agricultural or a residential district.

(c) *Allowed uses.* In a conservation design subdivision, the proposed uses shall be limited to residences, agriculture, and non-motorized recreational uses. Only agriculture, open space, forestry, non-commercial greenhouses, and non-motorized recreational uses are allowed in the conservation area(s).

(d) *Components of a conservation design subdivision.* A conservation design subdivision is comprised of two components: (A) the conservation area(s), and (B) the residential cluster. The conservation area(s) is the larger portion of the development parcel that is platted as a separate parcel and permanently conserved for passive open space, limited impact uses identified as part of the subdivision approval process, or non-motorized recreation uses. The residential cluster is the portion of the development parcel that is subdivided into parcels for residential development and accessory uses.

(e) *Conservation design subdivision standards.* In addition to the general subdivision design standards, the following standards shall apply to conservation design subdivisions:

- (1) *Maximum dwelling units.* The maximum dwelling units allowed within the residential cluster shall be determined by multiplying the total area of the tract of land by the maximum allowable density of the underlying zoning.
- (2) *Minimum conservation area.*
 - a. *Conservation area(s).* The minimum percentage of the conservation design subdivision parcel's gross land area that shall be set aside as conservation area(s) is 50 percent. The

conservation area(s) and its calculated percentage of the gross area shall be clearly delineated on the conservation design subdivision plat. The acreage, intended use, and final ownership of all conservation area tracts shall be shown on the plat.

- b. *Conservation lot(s)*. Up to two conservation lots may be designated for a parcel, provided that the minimum 50 percent conservation area is set aside within the conservation lot(s).
 - (3) *Location of conservation areas*. The conservation areas shall be delineated to include the following features:
 - a. Streams, rivers, waterbodies, wetlands, and other sensitive or unique natural features along with required setbacks as identified in this chapter;
 - b. Floodplains and alluvial soils;
 - c. Steep slopes (30 percent or greater);
 - d. Woodlands, natural areas, and wildlife habitats and corridors;
 - e. Scenic views, especially of natural and cultural features, including views from public spaces and roads, as well as views from potential home sites; and
 - f. Identified historic and cultural features.
 - (4) *Contiguous conservation area(s)*. To the maximum extent feasible, the conservation area(s) shall be contiguous to similar areas on adjacent properties.
- (f) *Location of residential lots*. The buildable residential lots and all public and private roads shall be sited to be located outside the delineated conservation areas.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Secs. 94-121—94-129. Reserved.

ARTICLE X. SIGNS

Sec. 94-130. General provisions.

(a) *Purpose and intent*. This section establishes the standards for the design, location, installation, and maintenance of signs on private property. Signs are an important means of visual communication for organizations and businesses for both location identification and wayfinding. The intent of this article is to provide standards that result in a reasonable balance between the right of an individual to identify a business or activity location, and the right of the public to be protected from the visual discord that results from the unrestricted proliferation of signs. Regulations contained in this article are a result of the consideration of the compatibility of signs with adjacent land uses and the total visual environment of a particular area within the entire community.

The purposes of these sign regulations are to:

- (1) Support an appropriate range of signage to allow business and property owners a means to communicate with the public;
- (2) Establish regulations that encourage the establishment of lively, vibrant, and decorative signage in keeping with the long history of creative signage in Branson;
- (3) Encourage a range of signage appropriate in type, size, scale, number, and placement to the zoning district in which it is located;

- (4) Ensure that public benefits derived by expenditures of public funds for the improvement and beautification of streets, and other public structures and open spaces, shall be protected by exercising reasonable control over the size and placement of signs and sign structures;
 - (5) Maintain and enhance the city's visual environment by establishing standards that balance the need for signage against the negative impact of signage that distracts rather than facilitates identification of businesses and other land uses;
 - (6) Preserve the rights of the city's citizens to enjoy the city's scenic beauty;
 - (7) Provide appropriate identification in pedestrian-oriented areas as well as in vehicular-oriented areas;
 - (8) Improve pedestrian and traffic safety by protecting against visual pollution through regulations which ensure signage does not obscure or distract the vision of motorists; place appropriate restrictions on signs that compete or conflict with necessary traffic signs and warning signals, and which may cause a severe traffic hazard;
 - (9) Protect the public from hazardous conditions which result from deteriorated or structurally unsafe signage;
 - (10) Generally, ensure that signage is appropriate to a particular use and location so that the cumulative effect is an attractive city environment, thereby reinforcing community values;
 - (11) Implement the goals and policies of the comprehensive plan; and
 - (12) Provide no more restrictions on speech than necessary to implement the purpose and intent of this section.
- (b) *Interests.* The city has a legitimate, important, substantial, or compelling interest in:
- (1) Preventing the proliferation of signs of generally increasing size, dimensions, and visual intrusiveness (also known as "visual pollution") that tends to result from property owners competing for the attention of passing motorists and pedestrians, because visual pollution:
 - a. Creates visual distraction and obstructs views, potentially creating safety hazards for motorists, bicyclists, and pedestrians;
 - b. May involve physical obstruction of streets, sidewalks, or trails, creating public safety hazards;
 - c. Degrades the aesthetic quality of the city, making the city a less attractive place for residents, business owners, visitors, and private investment; and
 - d. Dilutes or obscures messages on individual signs due to the increasing competition for attention.
 - (2) Maintaining and enhancing the character of the Downtown and the Entertainment District, both of which are resources of exceptional quality and vibrancy to the community as a whole.
 - (3) Protecting the health of the city's tree canopy, an important community asset that contributes to the character, environmental quality, and economic health of the city and the region.
 - (4) Maintaining a high quality aesthetic environment to protect and enhance property values, leverage public investments in streets, sidewalks, trails, plazas, parks, open space, civic buildings, and landscaping, and enhance community pride.
 - (5) Protecting minors from speech that is harmful to them according to state or federal law, by preventing such speech in places that are accessible to, and used by minors.

(c) *Findings.* The city finds that:

- (1) Content neutrality, viewpoint neutrality, and fundamental fairness in regulation and review are essential to ensuring an appropriate balance between the important, substantial, and compelling interests set out in this article, and the constitutionally-protected right to free expression.
- (2) The regulations set out in this article are unrelated to the suppression of constitutionally protected free expression, do not relate to the content of protected messages that may be displayed on signs, and do not relate to the viewpoint of individual speakers.
- (3) The incidental restriction on the freedom of speech that may result from the regulation of signs pursuant to this article is no greater than is essential to the furtherance of the important, substantial, and compelling interests that are set out in this article.
- (4) Regulation of the location, number, materials, height, sign area, form, and duration of display of temporary signs is essential to preventing visual pollution.
- (5) Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of the public on city's streets or sidewalks if they are not removed.
- (6) Certain classifications of speech are not constitutionally protected due to the harm that they cause to individuals or the community.

(d) *Savings and severability.*

- (1) Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs. Any sign that can be displayed under the provisions of this article may contain a noncommercial message.
- (2) If any clause, section, or other part of the application of these sign regulations shall be held by a court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the city that such clause, section, or specific regulation be considered eliminated and not affecting the validity of the remaining clauses, sections, or specific regulations that shall remain in full force and effect.

(e) *Conflicts with other provisions.* Nothing in this article 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 or applicable regulations shall comply with all such ordinances and regulations. If there is a conflict between this article and any other ordinance or regulation, the more stringent shall apply. Nothing in this article is intended to conflict with the provisions of the Missouri Outdoor Advertising Act (RSMo 226.500 et seq.).

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-131. Applicability.

(a) *Applicability.*

- (1) The regulations contained in this article shall apply to, and regulate the display, construction, installation, erection, alteration, use, location, maintenance, and removal of all signs and support structures in all districts unless the sign, item, or activity is expressly exempted.
- (2) No sign shall be located, erected, modified, or maintained except in compliance with the regulations contained in this article.

(b) *Sign permit required.* A sign permit shall be required to erect, place, modify, allow the continued placement, or convert any portion of a sign, including a conversion from temporary to permanent or from non-EMC to EMC unless otherwise provided in this article.

(c) *Exemptions.* The following signs, items, and activities do not require a permit, but shall comply with specific requirements as identified in this section:

(1) *Internal and integral signs.*

- a. Signs not intended for view or readily legible from the public right-of-way or adjacent residential, public, or civic districts or uses.
- b. Signs that are less than one square foot in area that are affixed to machines, equipment, fences, gates, walls, gasoline pumps, or utility cabinets.
- c. Signs or banners on fences and structures within an arena, city park, recreational complex, or athletic field, provided such signs or banners face inward to the arena, city park, recreational complex, or athletic field.
- d. The placement of any video or digital display with a screen area of less than one square foot on a permitted primary structure, accessory structure, or piece of equipment, and designed to be viewed only by an individual obtaining services or goods at that location. This includes digital or video screens on fuel pumps, car washes, and air filling stations.
- e. Integral signs that are carved into stone or similar material that are integral to the building. Integral signs shall not exceed 12 square feet in area.

(2) *Flags.*

- a. *Mixed-use or non-residential district:* any flag provided it is affixed to a permanent ground- or wall-mounted flagpole.
- b. *Residential district:* a maximum of three flags, not to exceed a combined area of 120 square feet.

(3) *Public signs.*

- a. Official public signs approved by a governmental body with jurisdiction over issues such as traffic safety, pedestrian safety, schools, railroads, or public notice, as well as signs required by the Manual of Uniform Traffic Controls.
- b. Signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation.

(4) *Qualifying vehicle signs.*

- a. Signs on a truck, bus, car, bike, scooter, or other motorized vehicle or equipment used in the normal course of business, provided all the following conditions are adhered to:
 - (i) Primary purpose of such vehicle or equipment is not the display of signs. Vehicles and equipment are not used primarily as static displays advertising a product or services, not utilized as storage, shelter, or distribution points for commercial products or services for the general public.
 - (ii) Signs are painted upon or applied directly to an integral part of the vehicle or equipment. A sign may be affixed to a vehicle for a period of time during which the vehicle is being used for deliveries. The sign is not allowed to project more than 12 inches beyond the limits of the vehicle body.
 - (iii) Vehicle or equipment is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used in the daily function of

the business to which such signs relate. A vehicle used by a company franchised by the city to provide public transportation on fixed routes shall be permitted to display signs not related to its primary business purpose.

- (iv) During period of inactivity exceeding seven consecutive days, such vehicle or equipment is not so parked or placed that the signs thereon are displayed to the public. Vehicles and equipment engaged in active construction projects, the on-premises storage of equipment, and vehicles offered to the general public for rent or lease (such as rental trucks and cars) are exempt from this prohibition.
 - b. Bumper stickers.
 - (5) *Seasonal displays.* Seasonal decorations located on private property.
 - (6) *Balloons.* Helium filled balloons can be used in any district provided:
 - a. The maximum size of any balloon is 12 inches in diameter;
 - b. The balloons are placed on private property and not on the public right-of-way;
 - c. The string attached to the balloons is short enough to prevent the balloons from being blown into or over the street or sidewalk; and
 - d. The balloons are attached to an approved temporary sign.
- (d) *Prohibited locations.* Signs and sign structures are prohibited in the following locations:
- (1) *Improper location.*
 - a. In the right-of-way or on other public property without approval of the city. For the purposes of this article, when the right-of-way is not clearly identified, signs shall be placed at least five feet from any edge of street or curb, or beyond any visible utility or sidewalk.
 - b. Placed on private property without the consent of the owner or authorized agent of the owner of such property.
 - c. Located in, or overhanging a utility easement.
 - d. Within a clear sight triangle.
 - e. Attached to any utility pole, other utility or public infrastructure structure or equipment, or wireless communication facility.
 - (2) *Creation of a hazardous condition.*
 - a. That create conflict with traffic control signs, signals, or various private signs resulting in vehicular or pedestrian safety hazards, including any sign placed at any location where it may, by reason of its size, shape, design, location, content, coloring, or manner of illumination, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by obscuring or otherwise physically interfering with any official traffic control device, or that may be confused with an official traffic control device.
 - b. That creates a danger to the public during periods of inclement weather or high winds due to their location or the manner in which they are placed.
 - c. That create a hazard due to collapse, fire, collision, decay, abandonment, or other safety considerations.
 - d. That obstruct firefighting or fixed police surveillance via photographic or video technology.

- e. That are improperly mounted or installed, such as signs attached to a standpipe, gutter drain, unbraced parapet wall, or fire escape, unless the safety of such sign and such mounting have been verified in writing by a structural engineer licensed to practice in the state.

(e) *Prohibited signs.* The following signs are not permitted in any district of the city, and are subject to removal in the manner provided in this article:

- (1) *Distracting, interfering, or confusing signs.*
 - a. Signs that contain or are an imitation of an official traffic sign or signal.
 - b. Signs that include flashing, high intensity lights, such as strobe lights, or that are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or emergency vehicle, or which obscures any traffic or street sign or signal.
 - c. Signs with a lighting or control mechanism that causes radio, radar, television, or other electronic signal interference.
- (2) *External movement and light projecting signs.*
 - a. Signs that move in any mechanical manner, have structural moving part(s) powered by a motor, or swing because of their design or by the manner of their suspension or attachment as a result of wind pressure, mechanically-driven apparatus, electrically-driven apparatus, or any combination thereof.
 - b. Wind signs (pennants, streamers, balloons, whirligigs or similar devices) or flutter flags, unless otherwise allowed by this article.
 - c. Signs that are light projecting or operate or employ any motion picture projection or video projection in conjunction with any advertisements.
 - d. Signs that cause odor or sound emission.
 - e. Moving billboard signs.
 - f. Sign walkers.
- (3) *Portable and temporary digital signs.*
 - a. Signs that are classified as portable signs.
 - b. Video display or electronic message center signs used as temporary signage.

(f) *Content.* No sign shall be approved or disapproved based on the content or message it displays, except that the following content, without reference to the viewpoint of the speaker, shall not be displayed on signs:

- (1) Text or graphics that is harmful to minors as defined by state or federal law;
- (2) Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats, as such words and phrases are defined by controlling law;
- (3) Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs;
- (4) Signs that provide false information related to public safety (e.g., signs that use the words "stop" or "caution" or comparable words, phrases, symbols, or characters) that are presented in a manner as to confuse or imply a safety hazard that doesn't exist; or
- (5) Text or graphics that provide false or misleading information in violation of this Code.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-132. Measurement and calculation.

(a) *Applicability.* This section applies to all sign types and classifications, including permanent signs, temporary signs, and off-premises signs.

(b) *Sign area.*

(1) *Maximum.*

- a. The maximum total signage permitted per property in the Mixed-Use, Community Commercial, Business, and Industrial Districts is 15 square feet of signage per one lineal foot of building frontage.
- b. The maximum total signage permitted per property in the Downtown and Neighborhood Commercial Districts is ten square feet of signage per one lineal foot of building frontage.
- c. The maximum total signage permitted per property in the Entertainment District is 20 square feet of signage per one lineal foot of building frontage.
- d. The maximum total signage permitted per property in the Agricultural and Conservation Districts is 64 square feet per public roadway frontage.
- e. The permitted maximum area for all individual signs is determined by the sign type and the zoning district in which the sign is located.

(2) *Building frontage.*

- a. Building frontage is the wall of the primary building that faces the street abutting the property. If the primary building is located on a corner lot, the frontage may be any wall of the primary building that faces a street.
- b. Accessory structures shall not be included in the calculation of maximum signage. Wall signs may be affixed to accessory structures; where this is done, the amount of signage used on the accessory structure shall be deducted from the total amount of signage permitted on the property.

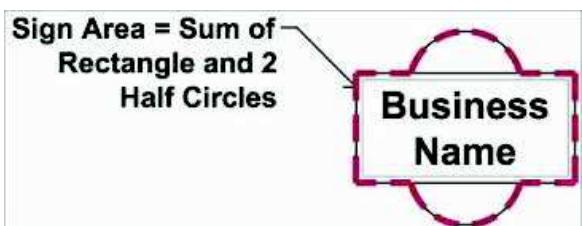
(3) *Sign area bonus for transfer of freestanding signage.* The total area of wall signs may be proportionately increased by transferring all or part of the permitted freestanding sign area to the wall signage.

- a. Freestanding sign area can be transferred to wall signage with a ten percent bonus of the amount transferred.
- b. Where all of the freestanding sign area is transferred to wall signage, a 20 percent bonus of the amount transferred shall be applied.

(4) *Method of measuring copy area.*

- a. The area of a two-dimensional sign is measured by encompassing the advertising display surface area within any combination of geometric figures (e.g., rectangles, squares, triangles, parallelograms, circles, or ellipses), having no more than eight sides, that would enclose all parts of the sign.

- (i) Sign copy mounted, affixed, or painted on a background panel or



Sample measurement using two geometric figures

area distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest geometric figure that will enclose both the sign copy and the background.

- (ii) Sign copy mounted as individual letters or graphics against a wall, fascia, or parapet of a building, or surface of another structure, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as a sum of the smallest geometric figure that will enclose each word and each graphic in the total sign. Window signs printed on a transparent film and affixed to a window pane shall be measured as freestanding letters or logos, provided that the portion of the transparent film around the perimeter of the sign message maintains the transparent character of the window and does not contain any items in the sign message.

- b. The sign area of three-dimensional free-form or sculptural (non-planar) signs is calculated as 50 percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.
- c. If elements of a sign are movable or flexible, such as a flag or banner, or if the sign includes any permitted copy extensions, the measurement is taken when the elements or extensions are fully extended and parallel to the plane of view.
- d. Only structural components shall be excluded in computing the total allowable area.
- e. Only one side of any on-premises or temporary double-faced sign shall be considered in the total sign area allowed for any building, use, or parcel. If an angle of 30 degrees for a "V" sign is exceeded, the area of both sign faces shall be included in the measurement of total sign area.

(5) *Window sign inclusions.*

- a. Interior signage shall be excluded from window sign measurements unless it is within five feet of a window or door through which it can be seen from the exterior of the building.
- b. Temporary internal displays that are not illuminated shall not be considered window signs provided:
 - (i) The display does not cover more than 25 percent of the surface of an individual window, and
 - (ii) The display does not meet the requirements for interior signage that is counted as window signage, above.

(c) *Height and clearance.* The permitted maximum height for all signs is determined by the sign type and the zoning district in which the sign is located. Sign height and clearance is measured as follows:

- (1) *Freestanding sign height.* The height of a freestanding sign shall be computed as the distance from the base of the sign at existing finished grade to the top of the highest attached component of the sign.

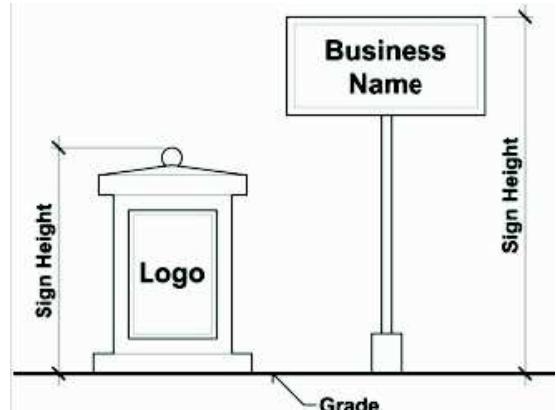


Identification of the vertical sides of a three-dimensional sign

- a. When the existing finished grade at the point of measurement is lower than the average elevation of the adjacent street finished grade parallel to the location where the sign will be installed, that portion of the sign below the street shall not be included in determining the sign's overall height.
- b. The height of any monument sign base or other structure erected to support or adorn the sign is measured as part of the sign height.
- c. If a sign is located on a mound, berm, or other raised area for the sole purpose of increasing the height of the sign, the height of the mound, berm, or other raised area shall be included in the height of the sign.

- (2) *Sign clearance.* Clearance for pole and projecting signs shall be measured as the smallest vertical distance between the sign and the finished grade directly underneath the sign at the lowest point of the sign structure, including any framework or other structural elements.

(Ord. No. 2019-0131, § 2, 9-24-2019; Ord. No. 2021-0101, § 2, 9-14-2021)



Sec. 94-133. Installation and inspections.

(a) *Installation.* The design and construction specifications and standards of this article apply generally to all signs within the city except as otherwise specifically provided in this article for specific sign types or signs in specific areas. In the event of conflict between or among provisions of this article, the specific provision shall prevail over the general or, if the provisions cannot be distinguished as specific or general, then the more restrictive provision shall prevail.

- (1) *Permanent materials and fastening.* Except as otherwise specifically permitted in this article, all signs authorized by this article shall be constructed of permanent materials and shall be permanently attached to either a building, structure wall, or other surface to which it is mounted, or to the ground by direct attachment to a pole, rigid wall, frame, or structure. Signs shall comply with all specific anchoring requirements of this article.

- (2) *Design and approval by professional engineer.*

- a. All freestanding, projecting, and roof signs shall be designed by a state-registered professional engineer to withstand 90 mph wind load for three seconds, and the engineer's signature and seal shall be affixed to the documents submitted to the city.
- b. In addition to the requirements contained elsewhere in this article, any sign may be required to be designed by a state-registered professional engineer, when the planning and development director determines that the size, structural components, or location of the sign are such that potentially could endanger the safety of the general public. The engineer's signature and seal shall be affixed to the submitted documents.

- (3) *Anchoring.* No sign shall be suspended by nonrigid attachments that will allow the sign to swing in the wind. All freestanding signs shall have self-supporting structures erected on, and permanently attached to concrete foundations.

(b) *Initial and periodic inspections.*

- (1) Any person installing, structurally altering, or relocating a sign for which a permit has been issued shall notify the planning and development director upon completion of the work. The planning and development director shall conduct an inspection within seven working days of the date of notice of completion to ensure that the sign is in compliance with this article.
- (2) If, at the time of application for a sign permit, any sign permits held by the applicant or sign contractor are over 90 days old and have not received final inspection approval, the planning and development director may deny issuance of the requested permit until such time that the sign has been inspected and approved.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-134. General regulations for permanent signs.(a) *Freestanding signs.*

- (1) *Access point signs.*
 - a. Uses with a permitted drive-thru may have access point signage located at public access points where a driveway or other public entryway intersects with a public street. Access point signs are for vehicular access, not pedestrian access.
 - b. Access point signs that are visible from the public right-of-way shall be permanently anchored or fastened.
- (2) *Monument signs.* Monument signs shall have zero clearance above the existing finish grade level and shall be supported in, or on the ground in accordance with this Code.

(3) *Pole signs.*

- a. *Clearance.* The following clearance area shall be maintained under any pole sign:
 - (i) A clear, unobstructed area, a minimum of eight feet in height above existing finish grade level when a pole sign is located over a pedestrian walkway or within a clear sight triangle.

- (ii) A clear, unobstructed area, a minimum of 13 feet in height above existing finish grade level when a pole sign is located over a vehicle access or parking area.
- b. *Support poles.* All support poles shall be clad to architecturally enhance the sign. Such cladding shall contain no advertising material or logos of any kind, but may contain decorative features.



- (4) *Structural canopy.* Signs may be attached to a continuous plane fascia on a structural canopy provided the sign does not extend above or below the projection of the fascia.



(b) *Attached signs.*

(1) *Awning signs.*

- a. The bottom of an awning sign shall be no less than eight feet above the existing finish grade level at any point.
- b. Awning signs shall not project closer than two feet to a curb line unless the awning is retractable and city has issued an encroachment permit.
- c. All signage on an awning shall be on the vertical plane of the awning. Where an awning does not have a clear vertical plane, the signage shall be centered on the lower third of the awning.

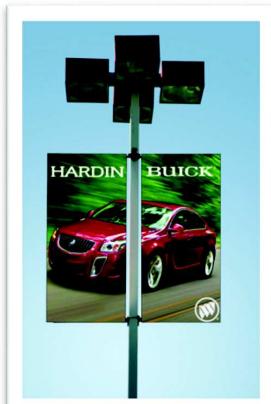


- (2) *Canopy signs.* The bottom of a canopy sign shall be no less than eight feet above the existing finish grade level at any point.



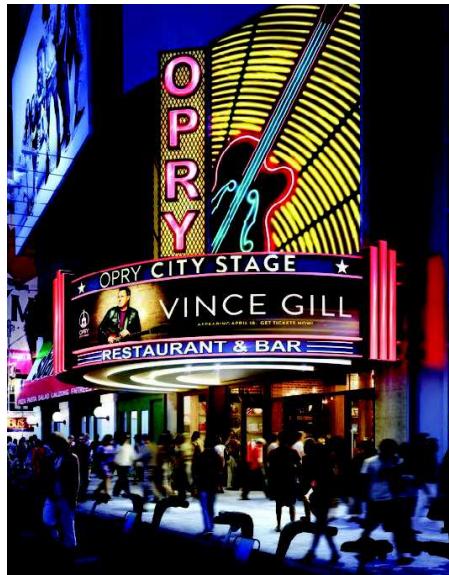
- (3) *Light pole banner signs.*

- The banners shall not extend more than three feet from the light pole.
- Banners must maintain a minimum vertical distance of ten feet from the bottom of the sign to existing finish grade level.

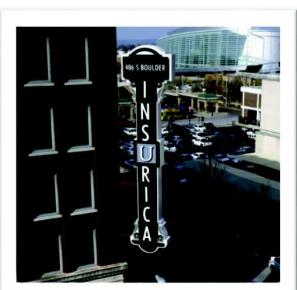


(4) *Marquee signs.*

- a. The bottom of a marquee sign shall be no less than eight feet above the existing finish grade level at any point.
- b. Marquee signs shall not project closer than two feet to a curb line unless the city has issued an encroachment permit.
- c. All signage on the marquee shall be affixed flat to the vertical face of the marquee. No part of the changeable copy shall project above or below the vertical face of a marquee sign.

(5) *Projecting signs.*

- a. The bottom of a projecting sign shall have a minimum clearance of eight feet above existing finish grade level at any point.
- b. A projecting sign shall not extend more than four feet from the building façade to which it is attached, and shall not project closer than two feet to a curb line unless the city has issued an encroachment permit.
- c. A projecting sign shall be mounted so that the top of the sign is no higher than the wall on which it is located.

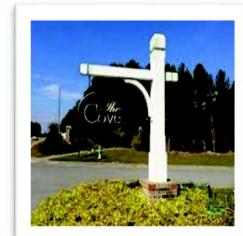


(6) *Roof signs.*

- a. Roof signs shall not project horizontally or extend beyond, nor overhang any exterior wall or parapet line of any roof.
- b. No roof sign shall result in a combined height of the principal structure and the roof sign that exceeds the maximum height limit established for principal structures in that district.

(7) *Subdivision signs.*

- a. Two subdivision signs shall be allowed per entrance.
- b. No subdivision sign shall be located in the intersection clear sight triangle.
- c. This sign area shall be allowed in addition to the maximum allowable sign area specified within the zone district.

(8) *Wall signs.*

- a. Wall signs shall not project above the building wall.
- b. When a sign requires access channels or service passageways within the sign, or when the sign is three-dimensional in character, the planning and development director may approve structurally reasonable increases in the distance from the wall of the wall sign, provided no copy appears anywhere except on the front sign face.



(9) *Window signs.*

- a. Window signs shall be considered as a part of the total wall signage allowed, calculated by measuring total amount of available wall signage and reducing that by permitted window signage.
- b. Window signage on any one window shall not exceed 25 percent of the window area as measured by each individual window.



(c) *Illumination for non-EMC signs.*

- (1) *Intent.* Light sources to illuminate signs shall neither be visible from any street right-of-way, nor cause glare which is hazardous or distracting to pedestrians, vehicle drivers, or adjacent properties.
- (2) *External illumination.* Externally illuminated signs, where permitted, shall be designed to avoid negative impacts on surrounding rights-of-way and properties, and are subject to the following regulations:
 - a. Shall be by a steady, stationary light source, fully shielded, and directed solely at the sign.

- b. The light source must be static in color.
 - (3) *Internal illumination.* Internally illuminated signs, where permitted, including neon lighting, must be static in intensity and color.
 - (4) *Display brightness.* Sign luminance shall not exceed 300 candelas per square meter, or nits, between the periods of sunset to sunrise as calculated by the United States Naval Observatory.
 - (5) *Flashing or rotating lights restricted.* No sign is allowed with flashing or rotating lights which would interfere with the safe passage of auto traffic, and no sign shall be allowed to simulate an emergency vehicle or a traffic control signal.
 - (6) *Prohibited signs.* Notwithstanding the provisions of this section, certain illuminated signs are prohibited in the city, as provided in this article.
- (d) *Electronic message center (EMC).*
- (1) *Off-premises signs.*
 - a. *Display.*
 - (i) Signs shall contain static messages only and shall not have movement or the appearance or optical illusion of movement during the static display period of any part of the sign.
 - (ii) Each static message shall not include flashing or the varying of light intensity, and shall not scroll.
 - (iii) The sign shall be programmed to display a blank screen if a malfunction occurs.
 - (iv) The sign shall not include audio, pyrotechnic, bluecasting (bluetooth advertising), or other similar components.
 - b. *Display time.*
 - (i) Each static message on the sign shall be displayed for a minimum of eight seconds in duration.
 - (ii) Message change shall be completed instantaneously.
 - (iii) There shall be a direct change from one message to the next. All transition effects, such as motion, animation, fading, scrolling, or dissolving are prohibited.
 - (2) *On-premises and off-premises signs.*
 - a. *Display brightness.*
 - (i) Sign luminance shall not exceed 300 candelas per square meter, or nits, in full white mode between the periods of sunset to sunrise as calculated by the United States Naval Observatory.
 - (ii) Each sign shall automatically adjust its intensity in response to ambient lighting conditions.
 - (iii) The light from any sign shall be so shaded, shielded, or directed that the light intensity or brightness shall not be projected over the property lines into a residential district except by indirect reflection.
 - b. *Display technology.* The technology currently being deployed for EMCs is LED (light emitting diode), but there may be alternate, preferred, and superior technology available in the future. Any other technology that operates under the brightness limits above shall not require an ordinance change for approval.

- c. *Incorporation in monument, pole, or marquee signage.* Where signs are incorporated into monument, pole, or marquee signage, the sign shall be designed as follows:
 - (i) EMCs are only permitted as an integral element of a monument, pole, or marquee sign, which enclose the message center component on all sides with a finish of brick, stone, stucco, powder-coated, painted, or comparable finished metal, or the surface of the sign face. The enclosure shall extend not less than six inches from the electronic message center in any direction.
 - (ii) EMCs shall make up not more than the following percentage of each sign type, and the balance of the sign area shall utilize permanent, dimensional letters or symbols:

Total percentage of sign as EMC

	Monument	Pole	Marquee
EMC - On-premises	60	50	75
EMC - Off-premises	75	90	75

(e) *Design.*

(1) *Architecture, size, scale, and location.*

- a. *Intent.* Sign design shall create a natural and identifiable connection between the sign and the building that helps to reinforce the image of the business on the site and the area of the community in which the sign is located. An example of architectural cohesiveness is where the design of the sign and its shapes, colors, and finishes mimic or reinforce the architectural lines and distinctive features of the building or development.
- b. Sign design shall be architecturally cohesive with either:
 - (i) The structures on the site,
 - (ii) The predominant architectural design of the properties within the block or surrounding properties, or
 - (iii) An adopted area, neighborhood, or corridor plan that includes a design component.
- c. When a single property has multiple tenants with separate storefronts, wall signs shall be compatible.
- d. Permanent attached signs affixed to the exterior of a building shall be compatible with the style, composition, materials, colors, and details of the building, as well as with other signs used on the building or its vicinity.
- e. Wall signs shall fit within the existing facade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal architectural details, or obscure the composition of the facade.
- f. Sign size shall be scaled to be appropriate with the size of the overall elevation and architectural form(s) on which it is located.

(2) *Cladding.*

- a. *Intent.* Cladding or decorative cosmetic pole covers enhance the quality appearance of a pole sign while giving a more substantial profile to the sign.
- b. All support poles shall be clad to architecturally enhance the sign.

c. *Design.*

- (i) Cladding may be multi-tiered or segmented, and finished with a textured finish or painted in complimentary tones to either the sign or the structure associated with the sign.
- (ii) For single pole signs, the cladding must be equal to 25 percent but no larger than 35 percent of the width of the sign.
- (iii) The cladding for each leg of double pole signs must be proportionate to the size and height of the sign, and the width of the total cladding shall not exceed 50 percent of the width of the sign.

(3) *Landscaping.*

- a. All freestanding signs shall be located within a landscape area equal in area to a minimum of ten times the height of the sign or 200 square feet, whichever is more.
- b. The materials selected for a required landscaped area located in an intersection clear sign triangle must be limited in height to three feet. This applies to any decorative features and vegetation that will be located within the clear sight triangle area.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-135. Sign regulations by district type.

(a) *Agricultural and conservation districts.* All square footage must be allocated to a single sign on the frontage where it was measured and cannot be aggregated with permitted square footage from other frontages.

(b) *Residential districts.*

- (1) Table 94-135.1 identifies the types of signs permitted in residential districts, and their regulations. If a sign type is not included in Table 94-135.1, it is not permitted in the residential districts.
- (2) Measurement instructions are provided in the measurement and calculation section of this article.

Table 94-135.1: Permanent Signs Permitted in Residential Districts

Sign Type	Max. Number	Max. Height (ft.) [1]	Max. Sign Area	Illum. [2]	Additional Standards
Attached Signs					
Wall: Civic and Institutional	1 per side of building	Same as wall [3]	Building frontage: 10%; other walls 5%	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: SF and TF Dwelling	1 per du	Same as wall [3]	4 sf	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: MF Office Building	2	Same as wall [3]	10%	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: MF Dwelling	2	Same as wall [3]	6 sf per sign	Internal or external	Sec. 94-135(b)(8), Wall Signs
Freestanding Signs					
Monument: Civic and Institutional	1	10 ft.	100 sf	Internal or external, EMCs permitted	Sec. 94-135(a)(2), Monument Signs; Min. setback from any property line: 10 ft.

Sign Type	Max. Number	Max. Height (ft.) [1]	Max. Sign Area	Illum. [2]	Additional Standards
Monument: Neighborhoods and Subdivision	2 per entrance	10 ft.	200 sf	Internal or external	Max. Length: 20 ft. Sign copy limited to 25% of total sign area of each sign; Min. setback from any property line: 10 ft.
Notes:					
[1] Measured at finished grade [2] EMC prohibited unless listed in sign type [3] No projecting above wall on which sign is located					

(c) *Mixed-use, community commercial, business, and industrial districts.*

- (1) Tables 94-135.2 identifies the types of attached signs permitted in Mixed-use, Community Commercial, Business, and Industrial Districts, and their regulations. Table 94-135.3 identifies the types of freestanding signs permitted in Mixed-use, Community Commercial, Business, and Industrial Districts, and their regulations. If a sign type is not included in the appropriate table, it is not permitted in a Mixed-use, Community Commercial, Business, or Industrial Districts. Residential uses are limited to dwelling unit wall signs.
- (2) Measurement instructions are provided in the measurement and calculation section of this article.

Table 94-135.2: Permanent Attached Signs Permitted in Mixed-Use, Community Commercial, Business, and Industrial Districts

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Max. Projection/Min. Clearance	Illum. [2]	Additional Standards
Awning	1 per awning	Top of vertical face of awning	Lesser of 35 sf or 25% of total area of awning	7 ft./8 ft.	External	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(1), Awning Signs
Canopy	1 per canopy	Top of vertical face of canopy	Lesser of 35 sf or 25% of total area of canopy	7 ft./8 ft.	Internal or external	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(2), Canopy Signs
Light Pole Banners	2 per operat'l light pole	May not extend above light pole	24 sf	3 ft./10 ft.	No	Not counted in max. total signage; limited to private parking areas; Sec. 94-135(b)(3), Light Pole Banners
Marquee	1 per street frontage	Top of vertical face of marquee	n/a	6 ft./8 ft.	Internal or external, EMC's permitted	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(4), Marquee Signs
Projecting	1 per street frontage	Same as wall [3]	20 sf	4 ft./8 ft.	Internal	Calculated as part of permitted wall sign area; Sec. 94-135(b)(5), Projecting Signs

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Max. Projection/Min. Clearance	Illum. [2]	Additional Standards
Roof	1 per street frontage, in-lieu of freestanding sign	10 ft. above the height of the roof line	50 sf	n/a	Internal or external	Sec. 94-135(b)(6), Roof Signs
Under-Canopy	1 per building entrance	May not extend above canopy	6 sf; may not extend outside of canopy	n/a/ 8 ft.	No	Not counted in max. total signage; First story only
Wall	n/a	Same as wall [3]	Building frontage: 20%; other walls 10%	n/a	Internal or external	Sec. 94-153(b)(8), Wall Signs
Wall: SF and TF Dwelling	1 per du	Same as wall [3]	2 sf	n/a	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: MF, Office Building	2	Same as wall [3]	10%	n/a	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: MF Dwelling	2	Same as wall [3]	6 sf per sign	n/a	Internal or external	Sec. 94-135(b)(8), Wall Signs
Window	n/a	Limited to distinct window area	25% of any window	n/a	No	Calculated as part of permitted wall sign area

Notes:

[1] Measured at finished grade.
[2] EMC prohibited unless listed in sign type.
[3] No projecting above wall on which sign is located.

Table 94-135.3: Permanent Freestanding Signs Permitted in Mixed-Use, Community Commercial, Business, and Industrial Districts

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Spacing [2]	Illum. [3]	Additional Standards
Access Point	2 per premises	3 ft.	6 sf	n/a	Internal or external	Sec. 94-135(a)(1), Access Point Signs; Min. setback from any property line: 0 ft.
Freestanding Structural Canopy	1 per frontage	May not extend above canopy where mounted	On canopy: 20% of canopy facia where mounted; Under canopy: 12 sf	n/a	Internal	Must meet building code clearance
Monument	1 per premises [4]	15 ft.	250 sf in structure area, 200 sf in sign area	200 ft.	Internal, external, or EMCs	Sec. 94-135(a)(2), Monument Signs; Min. setback from any property line: 5 ft.
Multi-tenant Monument	1 per premises	30 ft.	Same as monument plus 20 sf of structure and sign area per tenant up to 300 sf of sign area and 450 sf of sign structure	250 ft.	Internal, external, or EMCs	Sec. 94-135(a)(2), Monument Signs; Min. setback from any property line: 5 ft.

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Spacing [2]	Illum. [3]	Additional Standards
Pole, On-Premises	1 per premises [4]	20 ft.	150 sf	200 ft.	Internal, external, or EMCs	Sec. 94-135(a)(3), Pole/Pylon Signs; Min. setback from any property line: 10 ft.
Off-Premises Replacement	1 per premises [4]	25 ft.	300 sf	300 ft.	Internal, external, or EMCs	Sec. 94-135(a)(3), Pole/Pylon Signs; Min. setback from any property line: 10 ft.
Notes:						
<p>[1] Measured at finished grade.</p> <p>[2] Minimum required spacing between all monument and pole signs, including off-premises signs may be required by MoDOT where appropriate.</p> <p>[3] EMCs prohibited unless listed in sign type.</p> <p>[4] One additional monument or pole sign may be permitted per premises, per 300 linear feet of frontage, provided all spacing requirements can be met.</p>						

(d) *Downtown and neighborhood commercial districts.*

- (1) Table 94-135.4 identifies the types of attached signs permitted in the Downtown and Neighborhood Commercial Districts, and their regulations. Table 94-135.5 identifies the types of freestanding signs permitted in the Downtown and Neighborhood Commercial Districts, and their regulations. If a sign type is not included in the appropriate table, it is not permitted in the Downtown or Neighborhood Commercial Districts. Residential uses are limited to dwelling unit wall signs.
- (2) Measurement instructions are provided in the measurement and calculation section of this article.

Table 94-135.4: Permanent Attached Signs Permitted in the Downtown and Neighborhood Commercial Districts

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Max. Projection/Min. Clearance	Illum. [2]	Additional Standards
Awning	1 per awning	Top of vertical face of awning	Lesser of 35 sf or 25% of total area of awning	7 ft./ 8 ft.	External	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(1), Awning Signs
Canopy	1 per canopy	Top of vertical face of canopy	Lesser of 35 sf or 25% of total area of canopy	7 ft./ 8 ft.	External	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(2), Canopy Signs
Marquee	1 per street frontage	Top of vertical face of marquee where attached	n/a	6 ft./ 8 ft.	Internal or external	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(4), Marquee Signs
Projecting	1 per street frontage	Same as wall [3]	40 sf	4 ft./ 8 ft.	Internal	Sec. 94-135(b)(5) Projecting Signs

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Max. Projection/Min. Clearance	Illum. [2]	Additional Standards
Under-Canopy	1 per building entrance	May not extend above canopy	4 sf; may not extend outside of canopy	n/a/ 8 ft.	No	First story only
Wall	n/a	Same as wall [3]	Building frontage: 20%; other walls 10%[5]	n/a	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: MF, Office Building	2	Same as wall [3]	10%	n/a	Internal or external	Sec. 94-135(b)(8), Wall Signs
Wall: MF Dwelling Unit	2	Same as wall [3]	6 sf per sign	n/a	Internal or external	Sec. 94-135(b)(8), Wall Signs
Window	n/a	Limited to distinct window area	25% of any window	n/a	No	Calculated as part of permitted wall sign area

Notes:

[1] Measured at finished grade.
[2] EMC prohibited unless specifically listed in sign type.
[3] No projecting above wall on which sign is located.
[4] Measured at the roof line or top of parapet.
[5] Rear walls in an alley with a public entrance may have 15%.

Table 94-135.5: Permanent Freestanding Signs Permitted in the Downtown and Neighborhood Commercial Districts

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Spacing [2]	Illum. [3]	Additional Standards
Access Point	2 per premises	3 ft.	6 sf	n/a	Internal or external	Sec. 94-135(a)(1), Access Point Signs; Min. setback from any property line: 0 ft.
Freestanding Structural Canopy	1 per premises	May not extend above canopy where mounted	On canopy: 20% of canopy facia where mounted; Under canopy: 12 sf	n/a	Internal	Must meet building code clearance
Monument	1 per premises [4]	10 ft.	150 sf in structure area or 100 sf in sign area	150 ft.	Internal or external	Sec. 94-135(a)(2), Monument Signs; Min. setback from any property line: 5 ft.
Multi-tenant Monument	1 per premises	20 ft.	Same as monument plus 20 sf of structure and sign area per tenant up to 200 sf of sign area and 350 sf of sign structure	200 ft.	Internal or external	Sec. 94-135(a)(2), Monument Signs; Min. setback from any property line: 5 ft.
Pole	1 per premises [4]	15 ft.	100 sf	150 ft.	Internal or external	Sec. 94-135(a)(3), Pole/Pylon Signs; Min. setback from any property line: 10 ft.

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Spacing [2]	Illum. [3]	Additional Standards
Notes:						
[1]	Measured at finished grade.					
[2]	Minimum required spacing between all monument and pole signs, including off-premises. Additional spacing for off-premises signs may be required by MoDOT where appropriate.					
[3]	EMC prohibited unless specifically listed in sign type.					
	[4] One additional monument or pole sign may be permitted per premises, per 300 linear feet of frontage, provided all spacing requirements can be met.					

(e) *Entertainment district.*

- (1) Table 94-135.6 identifies the types of attached signs permitted in the Entertainment District. Table 94-135.7 identifies the types of freestanding signs permitted in the Entertainment District. If a sign type is not included in the appropriate table, it is not permitted in the Entertainment District. Residential uses are limited to dwelling unit wall signs.
- (2) Measurement instructions are provided in the measurement and calculation section of this article.
- (3) Freestanding signs may be enhanced through the use of copy extensions, cut-outs, or drop-outs. Enhancements shall be limited to a total of 20 percent of the allowed sign area for the sign on which it is installed, and must be included in engineering calculations.

Table 94-135.6: Permanent Attached Signs Permitted in the Entertainment District

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Max. Projection/Min. Clearance	Illum. [2]	Additional Standards
Awning or Canopy	1 per awning	Top of vertical face of awning	Lesser of 35 sf or 25% of total area of awning	7 ft./8 ft.	External	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(1), Awning Signs
Canopy	1 per canopy	Top of vertical face of canopy	Lesser of 35 sf or 25% of total area of canopy	7 ft./8 ft.	External	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(2), Canopy Signs
Light Pole Banners	2 per operat'l light pole	May not extend above light pole	24 sf	3 ft./10 ft.	No	Not counted in max. total signage; limited to private parking areas; Sec. 94-135(b)(3), Light Pole Banners
Marquee	1 per building	Top of vertical face of marquee	n/a	6 ft./8 ft.	Internal, external, or EMCs	Calculated as part of permitted wall sign area; First story only; Sec. 94-135(b)(4), Marquee Signs
Projecting	1 per building	Same as wall [3]	30 sf	6 ft./8 ft.	Internal	Not counted in max. total signage; Sec. 94-135(b)(5), Projecting Signs
Roof	1 per building, in-lieu of a freestanding sign	10 ft. above the height of the roof line or parapet	300 sf	n/a	Internal, external, or EMCs	Sec. 94-135(b)(6), Roof Signs

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Max. Projection/Min. Clearance	Illum. [2]	Additional Standards
Under-Canopy	1 per building entrance	May not extend above canopy or arcade	4 sf; may not extend outside of canopy or arcade	n/a; 8 ft.	No	Not counted in max. total signage; First story only; Sec. 94-135(b)(7), Under-Canopy Signs
Wall	n/a	Same as wall [3]	Building frontage: 30%; other walls 20%	n/a	Internal, external, or EMCs	Sec. 94-135(b)(8), Wall Signs
Window	n/a	Limited to architect; distinct window area	25% of any window	n/a	No	Calculated as part of permitted wall sign area

Notes:
[1] Measured at finished grade.
[2] EMC prohibited unless listed in sign type.
[3] No projecting above wall on which sign is located.

Table 94-135.7: Permanent Freestanding Signs Permitted in the Entertainment District

Sign Type	Max. Number	Max. Height [1]	Max. Sign Area	Spacing [2]	Illum. [3]	Additional Standards
Access Point	2 per premises	3 ft.	6 sf	n/a	Internal or external	Sec. 94-135(a)(1), Access Point Signs
Freestanding Structural Canopy	1 per frontage	May not extend above canopy where mounted	On canopy: 20% of canopy facia where mounted; Under canopy: 12 sf	n/a	Internal	Must meet building code clearance
Monument	1 per premises [4]	30 ft.	400 sf in structure and 300 sf in sign area	100 ft.	Internal or external, EMCs	Sec. 94-135(a)(2), Monument Signs; no min. setback
Multi-tenant Monument	1 per premises	40 ft.	Same as monument plus 20 sf of structure and sign area per tenant up to 400 sf of sign area and 550 sf of sign structure	150 ft.	Internal, external, or EMCs	Sec. 94-135(a)(2), Monument Signs; no min. setback
Pole, On-Premises	1 per premises [4]	25 ft.	200 sf	100 ft.	Internal, external, or EMCs	Sec. 94-135(a)(3), Pole/Pylon Signs; no min. setback
Off-Premises Replacement	1 per premises [4]	25 ft.	300 sf	200 ft.	Internal, external, or EMCs	Sec. 94-135(a)(3), Pole/Pylon Signs; no min. setback

Notes:
[1] Measured at finished grade.
[2] Minimum required spacing between all monument and pole signs, including off-premises. Additional spacing for off-premises signs may be required by MoDOT where appropriate.
[3] EMC prohibited unless listed in sign type.
[4] One additional monument or pole sign may be permitted per premises, per 300 linear feet of frontage, provided all spacing requirements can be met.

(f) *Planned Development Districts.*(1) *Applicable standards.*

- a. A Planned Development (PD) District shall be entitled to the same total signage area as the equivalent district and use categories within this article. For example, those areas designated for commercial development shall be governed by the Mixed-use, Community Commercial, Business, or Industrial District sign standards. Downtown, Neighborhood Commercial and Entertainment District sign standards are not applicable to PD development.
- b. An applicant for Planned Development District approval may submit a signage plan to the planning commission for review and recommendation to alter the sign regulations which would otherwise be applicable to the Planned Development District. The signage plan shall be submitted as part of a complete planned development project, and may not be submitted for the sole purpose of obtaining changes, variances, or waivers to the provisions of this article.
- c. The following categories of sign regulation are not subject to alteration through PD approval:
 - (i) Maximum total signage permitted,
 - (ii) Maximum sign height,
 - (iii) Maximum sign area,
 - (iv) Freestanding sign separation requirements, or
 - (v) Use of an electronic message center.

(2) *Signage plan.* All signage plans shall be submitted with the PD application and shall include, at a minimum, the following:

- a. A drawing of all proposed signs, drawn to scale, with dimensions and sizes of structural supports, and engineering specifications as required.
- b. Detailed information on each sign proposed, including height, type, and other necessary information related to conformance to existing sign regulations.
- c. A site plan of the Planned Development District, drawn to scale, including locations of all signs already present in the Planned Development District and properties immediately adjacent. This shall include correct measurements to property lines and to adjacent signs.
- d. A written explanation of the reasons for the request.
- e. An analysis showing evidence of no net increase in total signage area and compliance with the other categories of sign regulation that are not subject to alteration through PD approval.
- f. Other information, as requested, necessary to provide a complete and thorough report.

(g) *Alternative sign program.*(1) *Applicability.*

- a. An applicant may request approval of an alternative sign program to authorize signage that does not strictly conform to the criteria established in this article, but that meets the purpose and requirements of this article.

- b. The alternative sign program is not the exclusive way in which an applicant may seek a modification of this article. Depending on the circumstances of the site and application, an applicant may also seek a minor modification or a variance for changes to the standards in this article.
- (2) *Purpose.* An alternative sign program is intended to provide opportunities for signage that, while not in strict conformance with the standards of this article, provides compensating benefits without injury to the purpose and intent of the sign regulations. Such benefits may include, but are not necessarily limited to, enhanced public safety, enhanced visual interest, improved aesthetics, improved place identification, or superior visual integration of signs and related buildings. Alternative sign programs may be used to encourage creative, unusual, innovative, or unique design, architecture, construction, or materials, in contrast to conventional or formulaic signage. An approved alternative sign program establishes the standards by which subsequent sign permit applications shall be evaluated.
- (3) *Procedure.* A request for an alternative sign program may be reviewed as a stand-alone application or processed concurrently with other development applications for the site (e.g., zoning, special use permit).
- a. An alternative sign program application submitted without any companion applications shall be reviewed and decided on by the planning commission.
 - b. Where the application is processed concurrently with other applications, the deciding body for the companion application shall also make a final determination about the alternative sign program.
- (4) *Submission requirements.* The alternative sign program application shall include, at a minimum:
- a. An accurate site plan of the lot, drawn to scale, indicating the location of buildings, parking lots, driveways, and landscaped areas on the lot;
 - b. A color rendering or similar graphic depiction of all proposed signs;
 - c. Plans, elevations, and other documents as necessary to indicate the following information for all proposed signs and any existing signs that will remain on-site:
 - (i) Location,
 - (ii) Size,
 - (iii) Height,
 - (iv) Number, and
 - (v) Relationship to related buildings and other nearby buildings, signs, and travel ways.
 - d. Where existing signs will be modified, identification of dimensional, design, or structural changes that will be made to those signs; and
 - e. Proposed standards for temporary signage if different from the current regulations.
- (5) *Standards.*
- a. *Required standards.* A proposed alternative sign program may be approved only if the reviewing body finds that, considered as a whole and in comparison to the signage

achievable through strict compliance with this section, the alternative sign program results in a substantially improved, comprehensive, and unified proposal that meets the following standards:

(i) *Architectural criteria.*

1. Compatible with the architectural characteristics and spatial relationships of the buildings on which the signs are attached, and the placement of freestanding signs on the site, when considered in terms of location, scale, proportion, color, materials, and illumination.
2. Utilize or enhance the architectural elements of the building.
3. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features and details of the facade.

(ii) *Design quality.*

1. Creative in the use of two- and three-dimensional forms, iconographic representations, illumination and graphic design, including the use of color, pattern, typography, and materials.
2. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area.
3. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit.

(iii) *Community context.*

1. Reflect current or historic character of the city.
2. Incorporate symbols or imagery relating to the music or entertainment industry, Ozarks region, or outdoor character of the city.
3. Inventive representation of the use, name, or logo of the structure or business.

b. *Modifications.* The following modifications may be approved as part of an alternative sign program:

- (i) Applicable setbacks or required landscape area for detached signs may be reduced from the requirements of this article by up to 20%. Any increase shall not require an approved alternative sign program.
- (ii) The standards regulating height, maximum sign area, and spacing of signs may be modified by up to 20 percent from the requirements of the applicable zone district, based on the following factors:
 1. The overall size of the development and the scale of the use, or uses, located, or anticipated to be located there (larger land areas and scales of use tend to favor larger signs or more signs);
 2. The relationship between the building setback and sign location (higher visibility signage may be appropriate for buildings with lower visibility);
 3. The property frontage (larger property frontages may justify more or larger signs, particularly if the length of the property frontage tends to prevent visual pollution by allowing additional spacing between signs);
 4. Access and visibility to the property (limitations on access or visibility may justify relocation or resizing of signs according to an alternative sign program);
 5. Intended traffic circulation pattern;
 6. Creation of a more obvious hierarchy of signage;

7. Improvement of the relationship of signage between the property and adjacent properties or land uses;
 8. Proximity of the property to elevated streets and highways; and
 9. Consistency with the objectives and design policies of the city's comprehensive plan, special area plans, urban renewal plans, and any applicable land use plans, design plans, or design guidelines approved by the city for the area in which the alternative sign program is proposed.
- (iii) The permitted sign area bonus for selecting attached signs in-lieu of freestanding signs may be increased to 30 percent.
 - (iv) Existing nonconforming signs may be made conforming by approval of a modification through the alternative sign program.
 - (v) On-premises, nonconforming signs may be made conforming through the use of any modification, or combination of modifications, in this section.
 - (vi) Off-premises, nonconforming signs that existed prior to June 2019 that either are: (1) conforming except for the off-premises status, or (2) that can be made conforming with modifications in this section except for the off-premises status, and are used by a business within a premises no more than 1,000 feet from the location of the sign.
 - (vii) The reviewing body may also require removal or modification of any existing signs that reduce the application's level of compliance with the approval criteria as a condition of approval of an alternative sign program.
- (6) *Conditions of approval.* The reviewing body may impose conditions on the alternative sign program in order to ensure continuing compliance with the approved alternative sign program and any other applicable standards. Approval conditions may not be related to the content or viewpoint of the signs, or the nature of the sign users. If an applicant does not agree to the conditions, the applicant may terminate the alternative sign program by notifying the planning and development director in writing, provided that either:
 - a. No signs have been installed pursuant to the alternative sign program; or
 - b. The termination of the alternative sign program does not result in the presence of nonconforming signs on the applicant's property.
 - (7) *Issuance of permits.* After approval of an alternative sign program by the reviewing body, the director shall issue sign permits for individual signs within such program upon request of the applicant in accordance with the sign permit requirements of this article.
 - (8) *Term of approved alternative sign program.*
 - a. An alternative sign program approval shall be valid for one year after the date of approval, or such longer period as may be provided in the approval. alternative sign programs that are processed concurrently with a final PD development plan, final subdivision plat, or site plan approval shall be valid for the term of the associated development approval (i.e., if an associated final PD development plan, final subdivision plat, or site plan approval lapses, then the alternative sign program will simultaneously lapse).
 - b. If a sign permit is issued according to the alternative sign program within the period during which the alternative sign program is valid, and the sign is thereafter timely constructed, then the alternative sign program shall remain effective until the applicant requests amendment or termination.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-136. Temporary signs, generally.

- (a) *Purposes.* The purposes of these temporary sign regulations are as follows:
 - (1) Enhance opportunities for visual communication, including promoting the legibility of such communications;
 - (2) Create a more attractive economic and business climate within the city;
 - (3) Enhance and protect the physical appearance of all areas of the city; and
 - (4) Reduce the distractions, obstructions, and hazards to pedestrian and automobile traffic caused by the excessive number, size, or height, inappropriate means of illumination or movement, indiscriminate placement, overconcentration, or unsafe construction of signs.
- (b) *Allowed on private property restrictions.* Temporary signs, including, but not limited to, those specified within this article, are allowed on private property provided they meet the following requirements:
 - (1) The sign conforms to all requirements of this article;
 - (2) The sign does not interfere with automobile traffic or pedestrians;
 - (3) The sign is not placed in the public right-of-way or on public property;
 - (4) When a sign placed on private property, is done with the express permission of the property owner; and
 - (5) The sign is not a public danger or nuisance during high winds or inclement weather.
- (c) *Permits and standards.*
 - (1) *Required.* A temporary sign permit is required unless otherwise specified within this article.
 - (2) *Display duration.*
 - a. Unless otherwise defined within this article, the display of temporary signs shall be limited to a maximum of 30 days per address, cumulative total per calendar year.
 - b. The 30-day per address cumulative total per calendar year requirement shall be restarted when a business at a specific address changes ownership within any given year.
 - (3) *Number of signs.* Unless otherwise specified in this section, a maximum of one temporary sign shall be allowed per address at any time.
 - (4) *Printing and placement.* Signs may be printed on both sides or two-single sided banners may be placed back-to-back. V-type configurations are not allowed.
 - (5) Temporary signs shall not be used as a method to circumvent the regulations that apply to permanent signs, or to add a permanent sign to a parcel in addition to the permanent signage permitted on that parcel.
 - (6) Temporary signs shall not be illuminated.
 - (7) Temporary signs shall not contain any digital components, or a changeable message component or mechanism.
- (d) *Location.*
 - (1) Unless otherwise specified within this article, temporary signs may only be placed on the parcel for which the temporary sign permit is issued.

- (2) Except in the Downtown District, all temporary signs shall be located on private property. When property lines are not easily identifiable, signs shall be set back from the edge of the street pavement or curb, or beyond any visible utility or sidewalk, a minimum of five feet.
- (3) A-frame signs shall be located within ten feet of a pedestrian entrance, and shall be removed when the business is closed and during severe weather events.
- (e) *Removal.* Temporary signs shall be subject to removal as provided in this article.
(Ord. No. 2019-0131, § 2, 9-24-2019; Ord. No. 2021-0101, § 2, 9-14-2021)

Sec. 94-137. Permitted temporary signage.

(a) Sign types.

- (1) *A-frame sign.* A sign consisting of two sign faces placed together at an angle of 90 degrees or less to form an "A" shaped structure that tapers from a wide base to a narrow top.



- (2) *Banner sign.* A sign constructed of plastic or fabric of any kind that is attached to supports, a frame, or a flat surface.



- (3) *Yard sign.* A sign placed upon or supported by the ground, independently of any other structure, but not including an A-frame sign.

- a. Up to two sign riders of no more than one square foot each are permitted on yard signs.
- b. Permitted sign riders are not included in the sign area calculation.

- (b) *Temporary signage permitted by district.* The following temporary signage is permitted by lot, by district, and by use:



Table 96-137.1: Temporary Signage Permitted by District

Zone District	Land Use	Sign Type			Duration
		Yard	Banner	A-Frame	
Residential					
LDR MDR	Single-Family, Two-Family, Row house	Max. No.: 2 Max. Area: 6 sq. ft. per sign Max. Height: 6 feet		Not permitted	Not permitted
HDR	Multi-Family	Max. No.: 2 Max. Area: 6 sq. ft. per sign Max. Height: 6 ft	Max. No.: 1 per street frontage Max. Area: 16 sq. ft. Max. Height: 8 ft.	Not permitted	30 days

Zone District	Land Use	Sign Type			Duration
		Yard	Banner	A-Frame	
Commercial					
NC MU	All	Max. No.: 1 per public street frontage. Max. Area: 6 sq. ft. per sign Max. Height 6 ft.	Max. No.: 1 per public street frontage Max. Area: 32 sq. ft. per sign Max. Height 10 ft.	Max. No.: 1 per licensed business Max. Area: 8 sq. ft. per sign Max. Height 4 ft.	30 days
CC	All	Max. No.: 1 per licensed business Max. Area: 6 sq. ft. per sign Max. Height 6 ft.	Max. No.: 1 per public street frontage Max. Area: 32 sq. ft. per sign Max. Height 10 ft.	Max. No.: 1 per licensed business Max. Area: 8 sq. ft. per sign Max. Height 4 ft.	30 days
D	Commercial	Max. No.: 1 per public street frontage. Max. Area: 6 sq. ft. per sign Max. Height 6 ft.	Max. No.: 1 per lot Max. Area: 16 sq. ft. total Max. Height 8 ft.	Max. No.: 1 per licensed business Max. Area: 8 sq. ft. per sign Max. Height 4 ft.	30 days for Yard and Banner; 365 days for A-Frame
	Residential	Max. No.: 1 per public street frontage. Max. Area: 6 sq. ft. per sign Max. Height 6 ft.	Max. No.: 1 per lot Max. Area: 6 sq. ft. total Max. Height 6 ft.	Not permitted	30 days
ENT	All	Max. No.: 1 per public street frontage. Max. Area: 6 sq. ft. per sign Max. Height 6 ft.	Max. No.: 1 per public street frontage Max. Area: 32 sq. ft. per sign Max. Height 10 ft.	Max. No.: 1 per licensed business Max. Area: 8 sq. ft. per sign Max. Height 4 ft.	30 days
Office and Industrial					
BUS, I, AG, CON	All	Max. No.: 1 per public street frontage Max. Area: 6 sq. ft. per sign Max. Height 6 ft.	Max. No.: 1 per public street frontage Max. Area: 32 sq. ft. per sign Max. Height 10 ft.	Not permitted	30 days

(c) *Exceptions and additions to Table 96-137.1.*

- (1) A-frame signs may be placed on the public sidewalk in the Downtown District directly in front of the business, but shall be placed so they do not interfere with or impede the flow of pedestrian movement.
- (2) Active real estate listing or active building permit signs. One additional temporary sign is permitted on a property that is subject to: (a) an active real estate sale or rental listing; or (b) active building permit. The sign may remain posted on the site for the duration of the listing period or while the building permit is valid and active. The dimensional standards of Table 96-137.1 shall apply by district. No permit shall be required.

(d) *Temporary signage permitted by special event or temporary use.*

- (1) *General.* Temporary signs may be allowed as part of a special event or temporary use permit pursuant to this subsection.
 - a. *Maximum sign calculation.* Temporary signs permitted through a special event or temporary use permit may be off-premises with the permission of the property owner, and may be allowed on a parcel in addition to the maximum amount of temporary signage permitted on that parcel.

- b. *Temporary sign types.* Temporary signs permitted as part of a special event or temporary use permit are restricted to the types, sizes, and heights identified in Table 96-137.1 unless otherwise specified in this subsection.

Event	Number and Type of Signs Permitted		Duration
Election			See Election Event Signs, below
Garage/ Yard Sale	4	Yard	Placed and removed same day as event
Open House/ Auction	4	Yard	Placed and removed same day as event
Public Event	20	Yard	Placed no more than 7 days before; removed no more than 2 days after
	10	Banner	
Special Event	20	Yard	Placed no more than 7 days before; removed no more than 2 days after
	10	Banner	

- (2) *Election event.* For a period of 60 days prior to a state, local, or national election, the total number of temporary signs permitted per property may be increased over the maximum amount of temporary signage permitted by this article. The number of increased signs is calculated by the number of federal, state, and local issues and elected positions on the ballot within the voting district where the property is located. The content of this additional signage is not subject to regulation by the city, but the number shall not exceed the number of ballot issues and offices on the ballot. The dimensional standards of Table 96-137.1 shall apply by district. No permit shall be required for the additional signage during an election event, and the additional signage shall be removed no more than two days following the election.

Exception:

Any candidate who has won an August primary election, whose name will then appear on the subsequent November ballot, shall not be required to remove their campaign signs until two days following the November election.

- (3) *Garage/yard sale event.* Temporary signs may be permitted in conjunction with a permitted garage/yard sale as follows:
- Signs shall be located within a 5,000-foot radius of the garage/yard sale.
 - Signs may only be displayed on the same day as the garage/yard sale.
- (4) *Open house/auction event.* Temporary signs may be permitted in conjunction with a staffed real estate open house/auction as follows:
- Signs shall be located within a 5,000-foot radius of the open house.
 - Signs may only be displayed on the same day as the open house/auction event.
- (5) *Public event.*
- A maximum of ten banner signs and 20 yard signs may be issued in conjunction with a temporary use permit.
 - The temporary use permit shall specify the installation and removal dates of the temporary signs allowed in conjunction with the permit.
 - Banner signs shall not exceed 32 square feet of sign area, per side. Yard signs shall not exceed six square feet in area, per side. A-frame signs are not permitted.
- (6) *Special event.*
- A maximum of ten banner signs and 20 yard signs may be issued in conjunction with a special event permit.

- b. The special event permit shall specify the installation and removal dates of the temporary signs allowed in conjunction with the permit.
- c. Banner signs shall not exceed 32 square feet of sign area, per side. Yard signs shall not exceed six square feet in area per side. A-frame signs are not permitted.

(e) *Temporary substitute signage for damaged permanent signs.* In the event that a permanent sign is substantially damaged through fire, natural disaster, or similar emergency, or in the case of major construction projects, where existing permanent signage is removed for construction purposes, a temporary sign may be allowed for display for a period of time not exceeding 60 days. Temporary signage is limited to a maximum of 32 square feet per address, unless the temporary signage is affixed to any wall face of the main structure. When temporary signage is affixed to any wall face of the main structure, the maximum size of temporary signage may be increased to allow for a maximum coverage of 20 percent of the area of the wall face to which it is affixed. In no case shall any temporary signage exceed a maximum size of 250 square feet.

(Ord. No. 2019-0131, § 2, 9-24-2019; Ord. No. 2022-0055, § 2, 7-12-2022)

Sec. 94-138. Off-premises signs.

(a) *Limitation on issuance of new off-premises sign permits.*

- (1) The city shall not issue any new permits for the construction of off-premises signs except as otherwise provided in this section.
 - a. Nothing contained in this section shall be construed to limit the maintenance and repair of any existing off-premises signs.
 - b. Maintenance shall not include the conversion of an existing sign to an electronic message center sign. Any such conversions shall be subject to the permitting and fee requirements set forth in this article.
- (2) New off-premises signs are only allowed in areas zoned Community Commercial, Business, or Industrial, with frontage directly abutting U.S. Highway 65, and are subject to the following restrictions:
 - a. Sign Area: Maximum of 400 square feet.
 - b. Sign Height: Maximum height of 30 feet.
 - c. Spacing:
 - (i) *Required spacing.*
 - 1. A minimum distance of 1,400 feet of frontage on U.S. Highway 65 shall be maintained between every off-premises sign and any other freestanding sign located within 660 feet of the edge of the right-of-way of U.S. Highway 65.
 - 2. A minimum distance of 500 feet shall be maintained between any off-premises sign and any public or state park.
 - 3. A minimum distance of 1,000 feet of frontage on U.S. Highway 65 shall be maintained between any off-premises sign and any interchange as measured at the edge of the highway on- or off-ramp closest to the sign.
 - 4. A minimum distance of 250 feet from a residentially zoned property.
 - (ii) *Measurement.*
 - 1. For the purposes of off-premises signs, distance shall be measured as the minimum distance between sign structures as measured along the nearest edge

of the pavement between points directly opposite the signs along each side of the highway, and shall apply only to off-premises sign structures located on the same side of the right-of-way.

2. The sign measurement points shall be those which yield the shortest distance between the structures.

- (3) New off-premises signs shall meet both the requirements of this section, and where applicable, the requirements of the Missouri Revised Statutes relating to billboards.

(b) *Off-premises replacement signs.*

(1) *Requirements for replacement of existing off-premises signs.*

- a. An existing off-premises sign located in the Community Commercial or Entertainment District may be replaced with a static, EMC, or combination thereof with the concurrent removal or reduction of two times the equivalent sign area (2:1, "removal ratio") of the proposed off-premises replacement sign through any combination of existing off-premises sign(s) located in any zoning district. For the purposes of this section, the resulting sign shall be referred to as an "off-premises replacement sign."
- b. Only off-premises signs legally existing prior to May 30, 2019, shall be allowed to count toward the removal ratio. Any off-premises sign built outside of the city limits after May 30, 2019, then annexed into the city, shall not be permitted to count toward the removal ratio.
- c. An off-premises replacement sign may be sited in any location that meets all of the standards set forth in this article, including separation distance from other signs, including but not limited to the location(s) of any existing sign that is removed or reduced. The off-premises replacement sign shall be considered a conforming sign.

(2) *Sign structures.*

- a. An applicant may retain and reuse the structure of one of the removed signs, or continue to use the structure in the case of a reduced-size sign, where the retained structure is in current compliance with applicable building and electrical codes, and where any necessary structural changes can be made in compliance with applicable building and electrical codes.
- b. An applicant may not retain or reuse any sign structure that was considered nonconforming by MoDOT but has lost the nonconforming status pursuant to 7 CSR 10-6.060(3). While this provision is administered by MoDOT, it generally applies to deteriorated or damaged signs and structures that have had 50 percent or more repair or replacement in a 12-month period.

- (3) *Removal without immediate replacement.* Upon removal of an existing off-premises sign for any reason, the city shall record the size of the sign and other relevant information about the sign, and keep a record of the sign for five years from the date of removal. A removed off-premises sign that is part of the city's removed off-premises record can be used to satisfy the removal requirement for an off-premises replacement sign. If the removed sign square footage is not claimed within five years, that square footage may no longer be used to meet the size requirements for an off-premises replacement sign.

- (4) *Timing of application.* An application for an off-premises replacement sign may be made in anticipation of the removal of existing off-premises sign(s). The off-premises replacement sign application may be approved on the condition that the construction of the off-premises replacement sign shall not commence until the existing off-premises sign(s) are removed and documentation of their removal is submitted to the city.

- (5) *Transfer of approval.* The owner of an approved off-premises replacement sign within the city may transfer the right to build the replacement off-premises sign to another party. The transfer shall be stated in a letter signed by both parties which is submitted with an application for a replacement off-premises sign.

(c) *Generally applicable standards.* New off-premises signs and replacement off-premises signs are subject to the measurement and calculation, illumination, and electronic message center standards of this article unless otherwise specifically stated in this section.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-139. Nonconforming signs.

(a) *Nonconforming signs.* Where a lawful sign exists at the effective date of the ordinance from which this article is derived, or amendment of this article, that would be illegal under the terms of this article, such sign may be continued so long as it remains otherwise lawful, subject to the provisions of this section.

(1) *Classification of nonconformities.* There are two types of nonconforming signs: major and minor.

a. Major nonconforming signs are those signs for which the nonconformity generates a nuisance per se, violates city sign policy, or is incompatibility with adjacent signs or the comprehensive plan such that public policy favors their elimination from the zoning district if they are discontinued, abandoned, or destroyed. Major nonconforming signs include:

- (i) Off-premises signs,
- (ii) Dangerous signs,
- (iii) Nonconforming illumination,
- (iv) Nonconforming sign type,
- (v) Signs that are taller than the maximum height permitted in the zoning district, and
- (vi) Signs with minor nonconformities that have not been continuously permitted by the city.

b. Minor nonconforming signs are any nonconforming signs which are not classified as major nonconforming signs. Minor nonconforming signs include, but are not limited to:

- (i) Nonconforming setback,
- (ii) Nonconforming separation, or
- (iii) Nonconforming cladding.

(2) *Major nonconformities.*

a. A major nonconforming sign or sign structure may not be altered in any way that increases its nonconformity.

b. Any proposed change to a major nonconforming sign, excluding general repairs, maintenance, and advertising copy, shall require the sign to be brought into conformance with this article, except that alterations may be made to a major nonconforming, permanent, on-premises sign as follows:

- (i) Where the nonconformity is expressed as a measurement,
 1. The alteration must reduce the nonconformity by at least 50 percent. For example, a nonconforming sign that is ten feet over the maximum height for the district may be altered if the height of the sign is also lowered by at least five feet; or
 2. Where the sign can be made conforming with a change of up to ten percent or ten feet, the sign shall be brought into compliance. For example, a nonconforming sign that is eight feet away from compliance with a required setback shall be

relocated and brought into compliance unless there are other conditions on the site, unrelated to the sign and not caused by the applicant, that prohibit compliance.

- (ii) Where the nonconformity is not expressed as a measurement, such as a sign type that is no longer permitted in a zoning district, alterations may be made as long as the sign structure is kept at the same dimensions, and in same the location as the sign was when it became nonconforming. The sign and structure shall be fully maintained and functional, free from all defects, and not exhibiting any signs of deferred maintenance, deterioration, or abandonment. The city may require proof of maintenance for any internal components, such as electricity, or structural parts that are subject to degradation from wind, weather, or other external causes of stress to the sign.
 - (iii) Signs with multiple nonconformities may be altered provided at least one nonconformity meets the requirements of this section, and that none of the remaining nonconformities are increased or expanded.
- (3) *Minor nonconformities.* A minor nonconforming sign may be altered or replaced in a manner that conforms to this Code while still maintaining the nonconforming item (e.g., measurement, location, design).
- a. The applicant will be required to show that the sign's minor nonconformity items will not be increased and the sign has been continuously maintained.
 - b. Minor nonconforming signs that have been altered to increase their nonconformity shall be classified as a major nonconforming sign.
- (4) *Sign removal for public purposes.* Any sign temporarily removed by a public utility company, the city, or any governmental agency to accommodate repair, maintenance, or expansion operations, may be replaced, provided there is no change in size, height, or location of the sign. If any sign is moved as a direct result of a city, governmental, or utility project, it may be relocated to a position determined by the city engineer to be appropriate in relation to the project, and such a sign shall not be considered nonconforming for the reason of separation. No permit shall be required for such replacement.
- (b) *Loss of major nonconforming status.* A major nonconforming sign shall lose such designation if any of the following apply:
- (1) The sign is removed, relocated, or replaced for any reason except towards compliance with this article.
 - (2) If greater than 50 percent of a nonconforming sign is damaged by any means, as measured by replacement cost of any combination of the copy area and sign structure prior to such destruction, it shall be considered destroyed and shall not be brought back into service or use, except in conformity with the provisions of this article.
 - (3) The sign is replaced in compliance with this article.
 - (4) The sign is abandoned pursuant to this article.
- (c) *Maintenance and repair.*
- (1) A nonconforming sign is subject to all requirements of this article regarding safety, maintenance, and repair.
 - (2) When a sign permit has been obtained, temporary removal of any portion of a sign for repairs or general maintenance shall not be considered to be in violation of this section, provided that

no alterations are made to the sign structure. Should such sign structure be moved for any reason and over any distance whatsoever, it shall thereafter conform to all regulations for the district in which it is located after it has been moved or relocated.

- (3) Maintenance shall not include the conversion of a nonconforming sign to an electronic message center sign. Any such conversions may only be made to a conforming sign, and shall be subject to the permitting and fee requirements set forth in this article.

(d) *Records.*

- (1) The planning and development director shall maintain a list of all nonconforming signs, including the exact location of each, which list shall be updated as necessary.
- (2) In addition to initial and construction inspections, signs may be inspected periodically by the planning and development director to ensure continued compliance with this article.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-140. Maintenance.

(a) *Required maintenance.*

- (1) All signs and components thereof shall be maintained in good repair, and in a safe, neat, clean, and attractive condition, and shall be refurbished often enough to be clearly legible.
- (2) Maintenance shall not include the conversion of an existing sign to an electronic message center sign. Any such conversions shall be subject to the permitting and fee requirements set forth in this article.
- (3) In maintaining signs under this article, the following specific standards shall apply. Repairs, where required, shall be equal to, or better than the original sign in quality of materials and design:
- a. Sign finishes and structures shall be maintained in good condition and shall not have:
 - (i) Any surface area covered with disfigured, cracked, ripped, faded, or peeling paint, poster paper, or other material.
 - (ii) Rusted, disfigured, peeling, faded, bent, broken, dilapidated, or deteriorated sign facings, or supports, or loose appendages, or struts.
 - b. All signs shall have sign facings installed, whether blank or with advertising content.
 - c. Signs that are designed to be upright and level shall be installed and maintained in an upright and level position. Signs that are not upright and level shall be removed or restored to an upright and level position.
 - d. Signs shall not have weeds, trees, vines, or other vegetation growing on, or in it, or obscuring the view of the sign from the right-of-way from which it is to be viewed.
 - e. No internally illuminated sign shall be allowed to operate with less than full illumination.
 - f. Flags shall not be faded, tattered, or torn.
 - g. Sign lettering must be applied and maintained in such manner that the sign's overall appearance is professional, attractive, and legible.

(b) *Enforcement.* The owner of a sign(s) that fails to comply with applicable maintenance requirements shall be notified that they have 30 days to complete necessary maintenance or the sign will be subject to repair or removal by the city at owner or lessee's cost.

(c) *Abandoned signs.*(1) *Abandoned signs.*

- a. A sign or sign structure where either: (1) the sign is no longer used by the property or sign owner, in which case discontinuance of sign use may be shown by expiration or revocation of a business license for the business located on the property, or cessation of use of the property where the sign is located for the use or purpose associated with the sign; or (2) the sign has been damaged, and repairs and restoration have not been started within 45 days of the date the sign was damaged, or, once started, are not diligently pursued to completion.
- b. A nonconforming sign that meets the requirements of this section may be considered abandoned and will be subject to either sign face change or removal as may be appropriate.
- c. Temporary signs shall be considered abandoned if the associated permit has expired or if the sign fails to meet the maintenance requirements of this article.

(2) *Sign face change.*

- a. Where an on-premises sign becomes abandoned due to cessation of use of the associated building, the sign face(s) of all signs associated with the structure shall be removed and shall be replaced with a blank face or a face designating that the building is for sale or lease by the owner or lessee of the property upon which the sign is located when the business it advertises is no longer conducted on the property.
- b. If the owner or lessee fails to remove the sign face(s) and replace it with a blank face or face designating that the building is for sale or lease, the planning and development director shall give written notice to remove it and shall take such actions to remove and replace the sign as authorized in this article.

(3) *Sign removal.*

- a. When an on-premises sign becomes an abandoned sign due to demolition or destruction of the structure in which the business was located, the sign structure shall be removed at the same time as the demolition of the structure, or within 45 days of a determination of abandonment by the planning and development director.
- b. Where a successor to a business agrees in writing, prior to the demolition of the structure or as part of a determination of abandonment, to bring any sign into compliance with this article and to maintain the sign as provided in this article, the removal requirement shall not apply. The sign structure shall be brought into compliance prior to the issuance of a certificate of occupancy for use of any part of the associated structure or business.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Sec. 94-141. Violations and sign removal.

(a) *Signs subject to removal.* The planning and development director shall identify and shall order the removal of any signs, at cost to the owner, erected or maintained in violation of this article, including, but not limited to, illegal signs, unauthorized signs on city property, prohibited signs, abandoned signs, dilapidated or damaged signs, temporary signs posted beyond the time limit established in this article, and signs that due to design, construction, or failure to maintain are determined by the planning and development director to be unsafe or unsightly, and a blight on the community.

(b) *Illegal signs.* It is the policy of the city to aggressively enforce the provisions of this article, and to remove all illegal signs in the city. While other signs are unlawful and in violation of this article, an illegal sign is particularly offensive in that it is any sign constructed (after adoption of the ordinance from which this article is derived) without a permit, or constructed in violation of this article. An illegal sign was never a legal sign, has never complied with the provisions of this article, and has no legal right to remain. Illegal signs shall be removed in accordance with this article as expeditiously as possible.

(c) *Cost of removal by city.* The cost of correcting the unlawful, dangerous, or a defective feature, or total sign, shall be a personal liability of the owner, and may be assessed against the property on which the sign is located, together with the inspection, collection, and incidental costs, and a lien may be placed upon property to secure the same.

(d) *City may contract for sign removal services.* At the city's discretion, remedial action under this article may be taken on behalf of the city by a commercial sign company of the city's choice.

(e) *Removal of signs posing immediate safety threat.* A temporary or permanent sign may be removed immediately and without notice to the owner if, in the opinion of the planning and development director, the condition of a sign presents an immediate threat to the safety of the public and the owner cannot be located immediately. Removal of signs under this subsection shall be at the property owner's expense.

(f) *Removal of unlawful signs after notice to property owner.*

- (1) *Applicability.* This subsection does not apply to temporary signs.
- (2) *Notice of violation; order to remove.* The planning and development director shall give 30 days' notice in writing to the owner of such sign, or of the building, structure, or property on which a sign subject to removal under this article is located, stating the nature of the violation and ordering the owner to remove the sign or to bring it into compliance. If service of notice is given by publication as provided in this section, 15 days shall be added to the notice period established in this subsection.
- (3) *Service of notice by mail or personal delivery.* When notice is served to remove a sign, it may be served by federal postal service mail, postage prepaid, or delivered by handing the notice to the person to be served by the planning and development director, or by leaving the notice at the usual abode of the one to be served with a member of the household over the age of 15 years.
- (4) *Service by publication if owner is unknown.* If the address of the person to be served cannot be ascertained, the service of notice shall be by publication. The publication shall contain the full text of the notice and shall be published once a week for four consecutive weeks on the same day of the week in the newspaper, and the time specified for a hearing to be held by the administrative hearing officer.
- (5) *Contents of notice.* Notice given by the planning and development director shall state the remedial action required to be taken and the time within which it must be completed. The notice shall also state that if the required remedial action is not taken in the time allowed, the remedial action may be taken by the city, and the cost of correcting the violation shall be a personal liability of the owner, and may be assessed against the property on which the sign is located, together with the inspection, collection, and incidental costs.
- (6) *Appeal to board of adjustment.* A notice of violation and required removal under this article may be appealed by filing a written appeal in the office of the planning and development director within 15 calendar days of the violation notice. The board of adjustment shall hear the

appeal in accordance with its usual procedure. The board of adjustment, upon finding that a violation exists, may approve or modify the order of the planning and development director. The board of adjustment's decision may be appealed in the manner provided by law.

(g) *Removal of temporary signs.*

(1) *First offense.*

- a. The planning and development director may direct the immediate removal of prohibited (both type and location) and abandoned temporary signs. No notice is required prior to disposal of signs located on public property or an off-premises location.
- b. The planning and development director may direct the removal of any other temporary signage, at cost to the owner, erected or maintained in violation of this article as follows:
 - (i) The planning and development director shall provide written notice to the owner of the building, structure, or property on which such temporary sign is located, stating the nature of the violation and ordering the owner to remove the sign immediately or bring it into compliance. The written notice shall be served by United States mail, postage prepaid, or delivered by the planning and development director handing the notice to the person to be served.
 - (ii) If the owner or their authorized representative does not remove the temporary sign, or bring it into compliance within 24 hours of receipt of written notice, remedial action may be taken by the city to remove the signage.

(2) *Second offense.*

- a. If the planning and development director finds that there is a second violation within a 12-month period, the violating sign(s) shall be subject to immediate confiscation without notice. For purposes of calculating the 12-month period, the date of the commission of the first offense shall be used.
- b. The planning and development director shall give notice to the owner or lessee of the business to which a sign relates that the sign has been confiscated and that if not claimed within five calendar days from the date of the notice, the sign shall be disposed of by the city.

(3) *Third offense.*

- a. If the planning and development director finds that there is a third (or higher) violation within a 12-month period, the violating sign(s) shall be subject to immediate confiscation without notice. For purposes of calculating the 12-month period, the date of the commission of the first offense shall be used.
- b. Permits for temporary signs shall be prohibited to a third time violator for a period of 12 months following the date of the commission of the first offense.

(Ord. No. 2019-0131, § 2, 9-24-2019)

Secs. 94-142—94-149. Reserved.

ARTICLE XI. CITY PLANNING COMMISSION

Sec. 94-150. City planning commission.

(a) *Appointment of planning commission and adoption of plan.* The board shall adopt, amend and carry out the city plan, and appoint a planning commission with the powers and duties as described in this article.

(b) *Members of planning commission.* The planning commission shall consist of 11 members, including the mayor, if the mayor chooses to be a member, one member of the board appointed by the mayor and approved by the board annually during its first organizational meeting, and nine citizen members, appointed by the mayor and approved by the board. All citizen members shall serve without compensation. The term of each citizen member shall be four years, except that the terms of the citizen members first appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in the membership shall be filled by appointment as described above for the remainder of the expiring term. It shall be necessary for at least six members of the planning commission to be present at any meeting for the conduct of business, and a majority of those six members shall make a quorum to enact any business or pass upon recommendations.

(c) *Elected officers of planning commission and meetings.* The planning commission shall elect a chairperson, vice-chairperson and secretary from among its citizen members. Their terms shall be for one year with eligibility for reelection. The planning commission shall hold regular meetings and special meetings as they provide by rules, and shall adopt rules for the transaction of business, and keep a record of its proceedings. These records shall be public records. The planning commission shall appoint employees and staff as necessary for its work, and may contract with city planners and other professional persons for the services that it requires. The expenditures of the planning commission, exclusive of grants and gifts, shall be within the amounts appropriated for the purpose by the board.

(d) *Planning commission, powers and duties.* The planning commission shall be guided by, and set under the applicable laws of the state. The commission shall report on any and all proposed changes in the zoning code when adopted; shall review all proposed subdivisions of land; and may recommend plans and physical improvement programs for the city to the board.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Secs. 94-151—94-154. Reserved.

ARTICLE XII. BOARD OF ADJUSTMENT

Sec. 94-155. Board of adjustment.

(a) *Establishment and membership of board of adjustment.* A board of adjustment is hereby established, which shall consist of five members appointed by the board who are residents in the city. The membership of the first board of adjustment appointed shall serve respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter members shall be appointed for a term of five years. Members of the board of adjustment may be removed from office by the board for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the board for the length of the unexpired term.

(b) *Meetings.*

- (1) The board of adjustment shall adopt rules necessary to the conduct of its affairs. The board of adjustment shall elect its own chairman who shall serve for one year. Meetings shall be held at the call of the chairperson, and at such other times as the board of adjustment may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (2) The board of adjustment shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote indicating such fact, and shall keep

records of its examination and other official actions, all of which shall be public record. All testimony, objections thereto and rulings thereon, shall be taken down by a reporter employed by the board of adjustment for that purpose.

(c) *Appeals to the board of adjustment.*

- (1) Appeals to the board of adjustment concerning interpretation or administration of this title may be taken by any person aggrieved, or by any officer or bureau of the governing body of the city, affected by any decision of the planning and development director or planning commission. Such appeals shall be taken within a reasonable length of time, not to exceed 30 days, or such lesser period as may be provided by the rules of the board of adjustment, by filing with the planning and development director a notice of appeal specifying the grounds thereof. The planning and development director shall forthwith transmit to the board of adjustment a copy of the record of the action being appealed.
- (2) The board of adjustment shall fix a reasonable time for the hearing of appeal, give seven days' public notice thereof as due notice to the interested parties, and decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or attorney.
- (3) An appeal stays all proceedings in furtherance of the action appealed from, unless the planning and development director certifies to the board of adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, or notice to the planning and development director from whom the appeal is taken and on due cause shown.

(d) *Powers and duties.* The board of adjustment shall have the following powers and duties:

- (1) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, interpretation or determination made by the planning and development director in the enforcement of this chapter.
- (2) *Variances—Conditions governing applications, procedures.* To authorize upon appeal in specific cases such variance from the bulk or area regulations of this chapter, as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

a. A written application for a variance is submitted demonstrating:

- (i) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other land or structures in the same district;
- (ii) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- (iii) That the special conditions and circumstances do not result from the actions of the applicant;
- (iv) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district.

No nonconforming use of neighboring lands or structures in the same district, and no permitted or nonconforming use of land or structures in other districts, shall be considered grounds for the issuance of a variance.

- b. Notice of public hearing shall be given as is outlined in the proceedings of the board of adjustment.
 - c. The public hearing shall be held. Any party may appear in person, by agent or by attorney.
 - d. The board of adjustment shall make findings that the requirements of subsection (d)(2)a of this section have been met by the applicant for the variance.
 - e. The board of adjustment shall further make a finding that the granting of the variance is the minimum variance that will make possible the reasonable use of the land or structure.
In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under this chapter.
- (3) The board of adjustment has powers of administrative officials on appeals-reversing of administrative official. In exercising the above-mentioned powers, the board of adjustment may, so long as such action is in conformity with the terms of this title, reverse or affirm, wholly or partially, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.
 - (4) The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decisions or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.
 - (e) *Appeals from the board of adjustment.* Any person or persons, or any board, taxpayer, department, or bureau of the city, aggrieved by any decision of the board of adjustment may seek review of such decision by a court of record, in the manner provided by the laws of the state.
 - (f) *Appeals and variance processing and costs.*
 - (1) It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the board of adjustment shall be to the courts as provided by state law.
 - (2) It is further the intent of this chapter that the duties of the board in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the board shall have only the following duties:
 - a. Considering the adopting or rejecting of proposed amendments, or the repeal of this chapter, as provided by law; and
 - b. Establishing a schedule of fees and charges as stated below:
 - (i) *Appeal fee.* Application for an administrative appeal to the board of adjustment shall be made in writing to the planning and development department. Such application shall be accompanied by a fee in the amount provided in the city fee schedule to cover the cost of mailing and posting notices. An appeal shall be construed as having been perfected once the application and fee has been received.
 - (ii) *Variance fee.* Application for a variance to a piece of property from the zoning code shall be made in writing to the planning and development department by the owner

of the property or with the written permission of the property owner. Such application shall be accompanied by a fee in the amount provided in the city fee schedule.

- (iii) *Other fees.* To defray costs of proceedings prescribed in this article, fees shall be paid upon the filing of each application for posting and publishing all notices before the board of adjustment as required by law.

(Ord. No. 2018-0030, § 2, 4-10-2018)

Secs. 94-156—94-159. Reserved.

ARTICLE XIII. ENFORCEMENT, VIOLATION AND PENALTY*

Sec. 94-160. Violations; penalty.

(a) In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, any land disturbance is conducted, or any building, structure, or land is used in violation of state statute, or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, activity, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place, property, site, or premises to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of the state statute.

(b) The owner or general agent of a building or premises where a violation of any provision of this chapter has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part, or assists in any such violation, or who maintains any building or premises in which any such violation shall, upon conviction, be punishable by section 1-13.

(c) Any such person who having been served with an order to resolve any such violation shall fail to comply with such order within ten days after such service, or shall continue to violate any provision of the regulations made under authority of the state statute, in the respect named in such order shall also be subject to a civil penalty of \$250.00.

(d) No owner, or agent of the owner, of any land located within the platting jurisdiction of the city, knowingly or with intent to defraud, may transfer, sell, agree to sell, or negotiate to sell that land by reference to, or by other use of a plat of any purported subdivision of the land before the plat has been approved by the board or planning commission, and recorded in the office of the county recorder unless the owner or agent shall disclose in writing that such plat has not been approved by such board or planning commission, and the sale is contingent upon the approval of such plat by the board or planning commission. Any person violating the provisions of this section shall forfeit and pay to the city a penalty not to exceed \$300.00 for each parcel transferred or sold, or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in

*Editor's note—Ord. No. 2019-0130, § 2, adopted Sept. 24, 2019, deleted former Art. XIII, §§ 94-160 and 94-161, entitled "Tree Board and Public Tree Care," which derived from Ord. No. 2018-0030, § 2, Apr. 10, 2018. Ord. No. 2019-0130 further amended the Code by renumbering Art. XIV, §§ 94-165 and 94-166 as Art. XIII, §§ 94-160 and 94-161 as herein set out.

the process of selling or transferring shall not exempt the transaction from this penalty. The city may enjoin or vacate the transfer, sale, or agreement by legal action, and may recover the penalty in such action.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0130, § 2, 9-24-2019)

Sec. 94-161. Stop work order.

The city shall have the right to stop all, or any part of, construction activities and development in violation of this chapter. When a violation is found, the city shall post on the site a written order directing such construction activities and development to be stopped immediately, and shall also serve that written order upon any person, firm, corporation, or business engaged in such construction activities and development at the site. This section does not preclude remedies available under federal, state, or common law.

(Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2019-0130, § 2, 9-24-2019)

Secs. 94-162—94-199. Reserved.

Appendix A

FEE SCHEDULE*

***Editor's note**—Printed herein is the schedule of fees and charges as adopted and amended by the board of aldermen from time to time. Section numbers in the schedule refer to corresponding sections in the city Municipal Code. This schedule is provided for information and convenience only. The city may charge fees for other services that are not included in this table, and this table may include fees that have been the subject of amendments by the board of aldermen that are not yet reflected in this schedule. Information regarding fees and charges not included in this schedule is available in the office of the city clerk.

APPENDIX A—FEE SCHEDULE

Code Section	Description	Fee
<i>Chapter 2—Administration</i>		
2-285	Returned checks	\$ 25.00
<i>Chapter 6—Alcoholic Beverages</i>		
6-57	Original license application	250.00
	Additional license application or request	50.00
	Change in license	50.00
	Change in managing officer for a licensed liquor establishment	100.00
6-64	Liquor license renewal application—Late processing fee	100.00
	Reprocessing of liquor license renewal	25.00
6-81	Replacement of lost or destroyed license	5.00
<i>Chapter 14—Animals</i>		
	Animal establishment permits:	
	• Commercial:	
	- Pre-open inspection:	
	♦ New construction/remodel	350.00
	♦ Existing establishment/new owner	200.00
	- Permit:	
	♦ Housing wild animals permit	300.00
	♦ Housing all other animals permit	100.00
	- Reinspection (excluding temporary permits) for each reinspection after routine inspection or complaint with action	100.00
	• Temporary animal establishment permit (maximum of four days)	25.00
	Animal impound fees:	
	• Impound fees - first seven days	80.00
	• Impound fee - after seven days	10.00 per day
	• Rabies vaccination (if required)	30.00
<i>Chapter 18—Buildings and Building Regulations</i>		
	Work commencing before permit issuance:	
	• Commercial	228.00
	• Residential	119.00
	Building permit application, per \$1,000.00 of construction value	5.30
	Building permit application processing	50.00
	Building plan reviews, both commercial and residential, will be 50 percent building permit fee.	
	Building plan review addendum:	
	• Commercial projects per department	50.00
	• Residential projects	50.00
	Inspection fees for initial inspection:	
	• Inside the city limits (Note: For inspections inside the city limits, the inspection fee is included in the building permit fee.)	
	• Outside the city limits, per site inspection	30.00
	Inspection fees, for required reinspections:	
	• Mobile home placement	35.00
	• All other required reinspections	94.00
	Boarding permits:	

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Code Section	Description	Fee
	• Single-family residential structure	50.00
	• Commercial structure	100.00
	• Additional processing fee	50.00
	Paving, resurfacing or re-stripping permits of commercial parking lots	40.00
	Technology fee; applied to requests for a building permit	30.00
	Technology fee; applied to all non-building permit requests	15.00
	Footing and foundation permit additional plan review:	
	• Buildings under 10,000 square feet	250.00
	• Buildings 10,000 square feet and larger	400.00
	Board of appeal application	100.00
<i>Chapter 22—Businesses</i>		
22-38(a)	License fees, per number of employees:*	
	• 0 to 2 employees	50.00
	• 3 to 5 employees	75.00
	• 6 to 10 employees	100.00
	• 11 to 15 employees	125.00
	• 16 to 20 employees	150.00
	• 21 to 25 employees	175.00
	• 26 to 30 employees	200.00
	• 31 to 40 employees	225.00
	• 41 to 50 employees	250.00
	• 51 or more employees	300.00
22-38(b)	License fees not based on numbers of employees:	
	• Flea market operator and/or owner:	
	- Per day	5.00
	- Per annum*	100.00
	• Peddlers (excluding those engaged in interstate commerce):	
	- Per day	7.50
	- Per annum*	75.00
	• Temporary daily license, per day	7.50
	• Late renewal fee	225.00
	• Merchant craft show, flea markets (Note: No charge when sponsored by merchant association or a 501c(3) nonprofit organization)	0.00
	• Change of location (within 15 days of move)	10.00
	• Vehicle for hire permit, per year	3.00
	• Vehicle for hire driver permit, per driver per year	15.00
22-38(c)	License fees for contractors, subcontractors, or trades:*	
	• 0 to 4 employees	50.00
	• 5 or more employees	75.00
22-38(d)	Pawnshop fees	
	• License fee	500.00
	• Investigation fee (one-time)	500.00
	• Additional location investigation fee	250.00
22-24	* Note: Annual license proration is as follows: License issued May 1 to October 31 - total annual fee; Issued November 1 to January 31 - 50% of annual license fee; Issued February 1 to April 30 - 25% of annual fee.	

APPENDIX A—FEE SCHEDULE

Code Section	Description	Fee
22-41	Additional amount for false statements	250.00
22-163	Administrative fee, per day the sale is to be held	1.00
22-403	Horse-drawn carriage, driver's permit	15.00
22-405	Horse-drawn carriage, carriage permit	50.00
22-407	Horse-drawn carriage, horse permit	3.00
<i>Chapter 26—Cemeteries</i>		
26-20	Burial entry	100.00
26-24	Headstone deposit	150.00
26-25	Opening and closing of grave	100.00
<i>Chapter 30—Courts and Jails</i>		
30-31	Court cost	12.00
	Crime victim's compensation	7.50
	Officer training surcharge	3.00
	Court automation fee	7.00
	Filing of affidavit of appeal	30.00
	Domestic violence shelter surcharge, per case	4.00
	Inmate security fee	2.00
30-91(b)	Administrative hearing appeal fee	250.00
<i>Chapter 42—Fire Protection and Prevention</i>		
42-55	Operational Permit Fee Chart:	
	105.6.4 Carnivals and fairs, per event	100.00
	105.6.9 Covered mall buildings (open flames), annually	75.00
	105.6.14 Explosives (blasting):	
	• First week	150.00
	• Per additional week	75.00
	105.6.14 Explosives (fireworks sales), per 30 days	150.00
	105.6.14 Explosives (commercial fireworks display), per each event date	250.00
	105.6.14 Explosives (commercial fireworks/fixed site), annually	300.00
	105.6.20 Hazardous materials, annually	100.00
	105.6.26 Liquid- or gas-fueled or equipment in assembly buildings:	
	• Annually	150.00
	• Per event	75.00
	105.6.32 Open burning:	
	• First week	150.00
	• Per additional week	75.00
	105.6.14 Explosives (Pyrotechnic special effects material):	
	• Annually	150.00
	• Per event	100.00
	105.6.47 Temporary membrane structures, tents and canopies:	
	• First week	100.00
	• Per additional week	50.00
	Additional inspections and re-inspections, as required	100.00
<i>Chapter 46—Health Sanitation</i>		
46-31	Massage establishment permits:	
	• Pre-open inspection	125.00
	• Permit	150.00
	• Reinspection	75.00

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Code Section	Description	Fee
	Body art establishment permits:	
	• Pre-open inspection	125.00
	• Permit	150.00
	• Reinspection	75.00
	Public swimming pool permits, per body of water (including theme parks):	
	• Pre-open inspection:	
	- New construction/remodel	350.00
	- Existing establishment/new owner	150.00
	• Permit:	
	- Outdoor pool permit	200.00
	- Indoor pool permit	250.00
	• Reinspection (excluding temporary permits) for each reinspection after routine inspection or complaint with action	150.00
	Spa permits, per body of water (including theme parks):	
	• Pre-open inspection:	
	- New construction/remodel	140.00
	- Existing establishment/new owner	140.00
	• Permit:	
	- Outdoor spa permit	200.00
	- Indoor spa permit	250.00
	• Reinspection (excluding temporary permits) for each reinspection after routine inspection or complaint with action	150.00
	Food establishment permits, per establishment:	
	• Pre-open inspection:	
	- New construction/remodel	400.00
	- Existing establishment/new owner	225.00
	• Permit:	
	- High risk category 3 permit	500.00
	- Medium risk category 2 permit	300.00
	- Low risk category 1 permit	150.00
	- Temporary food establishment permit	100.00
	• Reinspection (excluding temporary permits) for each reinspection after routine inspection or complaint with action	140.00
	• Complaint inspection	135.00
	Lodging establishment permits, per establishment:	
	• Pre-open inspection:	
	- New construction or closed for 18 months or more	350.00
	- Existing establishment or closed for less than 18 months	275.00
	• Permit:	
	- <50 rooms	350.00
	- 51—200 rooms	400.00
	- >201 rooms	450.00
	• Reinspection (excluding temporary permits) for each reinspection after routine inspection or complaint with action	175.00
	• Complaint inspection	175.00
<i>Chapter 54—Law Enforcement</i>		
54-86	Expense reimbursement for more than three false alarms	100.00

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Code Section	Description	Fee
	Expense reimbursement for subsequent false alarms	100.00
<i>Chapter 58—Offenses and Nuisances</i>		
58-98	Archery deer hunt permit	5.00
<i>Chapter 78—Streets, Sidewalks and Other Public Places</i>		
78-154	Application fee deposit	200.00
	Annual rental payment for use of right-of-way, per linear foot	0.25
78-211	Small wireless facilities:	
	For each application to locate a small wireless facility:	
	Per small wireless facility collocated on existing poles	100.00
	For the installation, modification or replacement of a utility pole associated with the facility	500.00
	Annual fee:	
	For each collocation of a small wireless facility on a city pole	150.00
<i>Chapter 82—Taxation</i>		
82-99	Minimum tourism tax deposit	100.00
82-103	License reinstatement fee	60.00
82-126	Cigarette license application, per year	1.00
<i>Chapter 86—Traffic and Vehicles</i>		
86-113	All-terrian vehicles, golf cars and low-speed vehicles permit fee	15.00 per year
<i>Chapter 90—Utilities</i>		
90-24	Residential customer deposit:	
	• Owner occupied:	
	- Within city limits	50.00
	- Outside city limits	75.00
	• Second home or rental:	
	- Within city limits	75.00
	- Outside city limits	125.00
	Commercial customer deposit by meter size:	
	• Minimum deposit	75.00
	• Up to 1-inch meter	400.00
	• 1.5-inch meter	750.00
	• 2-inch meter	1,000.00
	• 3-inch meter	2,000.00
	• 4-inch meter	3,500.00
	• 6-inch meter	13,000.00
	Property manager or realtor deposit	75.00
90-26	New meter installation parts, materials, labor and equipment	Actual cost
90-33	Water service charges, per month:	
	(1) Basic monthly rate for residential water consumers:	
	• Basic:	
	- 5/8-inch meter	12.12
	- 3/4-inch meter	12.12
	- 1.0-inch meter	20.25
	- 1.5-inch meter	40.39
	- 2.0-inch meter	64.66
	- 3.0-inch meter	121.27

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Code Section	Description	Fee
	- 4.0-inch meter	202.17
	- 6.0-inch meter	404.23
	• *Within city limits:	
	- Residential customer eleemosynary and governmental water service charges (in addition to basic monthly charge):	
	♦ Up to 2,000 gallons	0.00
	♦ Per 1,000 gallons or fraction thereof over 2,000 gallons	3.11
(2)	Basic monthly rate for commercial water consumers:	
	• Basic:	
	- 5/8-inch meter	13.18
	- 3/4-inch meter	13.18
	- 1.0-inch meter	22.02
	- 1.5-inch meter	43.92
	- 2.0-inch meter	70.30
	- 3.0-inch meter	131.87
	- 4.0-inch meter	219.84
	- 6.0-inch meter	439.55
	• *Within city limits:	
	- Commercial and industrial water service charges (in addition to basic monthly charge):	
	♦ Up to 2,000 gallons	0.00
	♦ Per 1,000 gallons or fraction thereof over 2,000 gallons	5.02
	• Outside city limits, residential eleemosynary, governmental, industrial and commercial water service charges:	
	- Up to 2,000 gallons-as a percentage of basic charge applicable inside city limits	250%
	- Per 1,000 or fraction thereof over 2,000 gallons-as a percentage of use rates for inside city limits	250%
90-34	Sanitary sewer services charges, per month:	
	• Basic:	
	- 5/8-inch meter	10.02
	- 0.75-inch meter	10.02
	- 1.0-inch meter	16.74
	- 1.5-inch meter	33.35
	- 2.0-inch meter	53.34
	- 3.0-inch meter	100.11
	- 4.0-inch meter	166.88
	- 6.0-inch meter	333.66
	• Within city limits:	
	- Residential customer, eleemosynary and governmental sewer service charges (in addition to basic monthly charge):	
	♦ Up to 2,000 gallons	0.00
	♦ Per 1,000 gallons or fraction thereof over 2,000 gallons	3.17
	• Commercial and industrial sewer service charges (in addition to basic monthly charge):	
	♦ Up to 2,000 gallons	0.00
	♦ Per 1,000 gallons or fraction thereof over 2,000 gallons	6.13

APPENDIX A—FEE SCHEDULE

Code Section	Description	Fee
	<ul style="list-style-type: none"> • Outside city limits, residential, eleemosynary, governmental, industrial and commercial sewer service charges: 	
	<ul style="list-style-type: none"> - Up to 2,000 gallons-as a percentage of basic charge applicable inside city limits 	250%
	<ul style="list-style-type: none"> - Per 1,000 or fraction thereof over 2,000 gallons-as a percentage of use rates for inside city limits 	250%
	<ul style="list-style-type: none"> • Surcharge for waste in excess of 300 mg/l BOD, per pound 	0.29
90-35	Holding tank waste delivery, per 1,000 gallons	12.61
	Special waste delivery, per 1,000 gallons	26.67
90-38	Second notice notification charge	13.00
	Fee for use of process server	Actual Cost
	Disconnection service charge for nonpayment	13.00
	Reconnection service charge for nonpayment disconnection	13.00
	Disconnection service charge for customer request	13.00
	Reconnection service charge for customer request	13.00
90-42	Temporary water meters:	
	<ul style="list-style-type: none"> • Deposit: 	
	<ul style="list-style-type: none"> - 5/8-inch to 1.0-inch meter 	100.00
	<ul style="list-style-type: none"> - 2.0-inch meter 	250.00
	<ul style="list-style-type: none"> • Rental, per 30 day period or portion thereof: 	
	<ul style="list-style-type: none"> - 5/8-inch to 1.0-inch meter 	30.00
	<ul style="list-style-type: none"> - 2.0-inch meter 	60.00
	<ul style="list-style-type: none"> • Water use - same as applicable permanent service rate 	
90-47	Residential water service plumbing permit application	25.00
	Industrial or commercial water service plumbing permit application	37.00
90-79	Sewer service charge for approved dump stations, per year	250.00
90-81	Water system connection charges:	
	<ul style="list-style-type: none"> • Residential: Single-family and multiple-family dwelling: 	
	<ul style="list-style-type: none"> - 0.75-inch meter 	1,200.00
	<ul style="list-style-type: none"> - 1.0-inch meter 	2,004.00
	<ul style="list-style-type: none"> - 1.5-inch meter 	3,996.00
	<ul style="list-style-type: none"> - 2.0-inch meter 	6,396.00
	<ul style="list-style-type: none"> - 3.0-inch meter 	12,000.00
	<ul style="list-style-type: none"> - 4.0-inch meter 	20,004.00
	<ul style="list-style-type: none"> • Commercial: Class I: Retail sales, office buildings, and nightly rentals with individual water meters (Properties converting from Residential to a nightly rental will not be charged a new connection fee pursuant to 90-81(2)c.) 	
	<ul style="list-style-type: none"> - 0.75-inch meter 	1,700.00
	<ul style="list-style-type: none"> - 1.0-inch meter 	2,839.00
	<ul style="list-style-type: none"> - 1.5-inch meter 	5,661.00
	<ul style="list-style-type: none"> - 2.0-inch meter 	9,061.00
	<ul style="list-style-type: none"> - 3.0-inch meter 	17,000.00
	<ul style="list-style-type: none"> • Commercial: Class II: All commercial customers not in Class I: 	
	<ul style="list-style-type: none"> - 0.75-inch meter 	2,000.00
	<ul style="list-style-type: none"> - 1.0-inch meter 	3,340.00
	<ul style="list-style-type: none"> - 1.5-inch meter 	6,660.00
	<ul style="list-style-type: none"> - 2.0-inch meter 	10,660.00

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Code Section	Description	Fee
	- 3.0-inch meter	20,000.00
	- 4.0-inch meter	33,340.00
	- 6.0-inch meter	66,660.00
Sewage system connection charges:		
	• Residential: Single-family and multiple-family dwelling:	
	- 0.75-inch meter	1,800.00
	- 1.0-inch meter	3,006.00
	- 1.5-inch meter	5,994.00
	- 2.0-inch meter	9,594.00
	- 3.0-inch meter	18,000.00
	- 4.0-inch meter	30,006.00
	• Commercial: Class I: Retail sales, office buildings, and nightly rentals with individual water meters (Properties converting from Residential to a nightly rental will not be charged a new connection fee pursuant to 90-81(2)c.)	
	- 0.75-inch meter	2,200.00
	- 1.0-inch meter	3,674.00
	- 1.5-inch meter	7,326.00
	- 2.0-inch meter	11,726.00
	- 3.0-inch meter	22,000.00
	• Commercial: Class II: All commercial customers not in Class I:	
	- 0.75-inch meter	2,800.00
	- 1.0-inch meter	4,676.00
	- 1.5-inch meter	9,324.00
	- 2.0-inch meter	14,924.00
	- 3.0-inch meter	28,000.00
	- 4.0-inch meter	46,676.00
	- 6.0-inch meter	93,324.00
	• Non-typical meter size weighting factor:	
	- 0.75-inch meter	1.00
	- 1.0-inch meter	1.67
	- 1.5-inch meter	3.33
	- 2.0-inch meter	5.33
	- 3.0-inch meter	10.00
	- 4.0-inch meter	16.67
	- 6.0-inch meter	33.33
90-130	Residential building sewer permit application	36.00
	Industrial or Commercial building sewer permit application	73.00
<i>Chapter 94—Zoning</i>		
94-6	General planning application	100.00
94-34	Voluntary annexation application	347.00
94-48.d	Planned development application	1,089.00
94-48.g.2	Planned development amendment application	1,089.00
94-65	Special event application	50.00
94-65.c.2.a	Level one event	90.00
94-65.c.2.b	Level two event	230.00
94-65.c.2.c	Level three event	510.00
94-16	Special use application	1,014.00

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Code Section	Description	Fee
94-7	Zoning change application	760.00
94-64.d.5	Temporary use application—Garage/yard/estate sale	0.00
94-64	Temporary use application—Over the counter review	5.00
94-64.d.1	Charitable drop box	5.00
94-64.d.7	Portable storage unit	5.00
94-64.d.9	Recycling drop-off center	5.00
94-64.d.10	Searchlight	5.00
94-64.d.12	Temporary office facility	5.00
94-64.d.13	Temporary vehicle wash	5.00
94-64	Temporary use application—Staff review	50.00
94-64.d.2	Construction office/storage yard	50.00
94-64.d.3	Farmer's market	50.00
94-64.d.4	Food truck	50.00
94-64.d.6	Outdoor sales/promotional event	50.00
94-64.d.8	Public event on private property	50.00
94-64.d.11	Seasonal sale	50.00
	Technology fee	15.00
94-8.c	Minor subdivision plat	170.00
94-8.d.4	Preliminary subdivision plat	605.00
	Preliminary subdivision replat	836.00
94-8.d.6	Final subdivision plat	836.00
	Final subdivision replat	836.00
94-8.b.3	Condominium split application	170.00
94-120	Conservation design subdivision application	836.00
78	Street vacation	722.00
	Easement vacation	514.00
94-9	Minor modification	50.00
94-10	Land disturbance permit	
94-130	Sign permit:	
	• For first \$1,000.00 of construction costs	25.00
	• Over \$1,000.00 of construction costs, per \$1,000.00	4.25
	Technology fee	15.00
94-136	Temporary sign/banner	25.00
	Technology fee	15.00
94-155	Appeal application	696.00
94-155.d.2	Variance application	696.00

(Ord. No. 2015-0112, § 2, 10-27-2015; Ord. No. 2015-0113, § 2, 10-27-2015; Ord. No. 2015-0187, § 3, 12-15-2015; Ord. No. 2016-0040, § 2, 4-12-2016; Ord. No. 2016-0053, § 2, 5-24-2016; Ord. No. 2016-0129, § 2, 10-25-2016; Ord. No. 2017-0014, § 2, 2-14-2017; 2017-0019, § 2, 2-28-2017; Ord. No. 2017-0095, § 2, 9-12-2017; Ord. No. 2017-0097, § 2, 9-12-2017; Ord. No. 2017-0133, § 2, 11-13-2017; Ord. No. 2017-0165, § 2, 11-28-2017; Ord. No. 2017-0187, § 2, 12-18-2017; Ord. No. 2018-0030, § 2, 4-10-2018; Ord. No. 2018-0060, § 2, 6-12-2018; Ord. No. 2018-0095, § 2, 9-11-2018; Ord. No. 2018-0122, § 2, 11-13-2018; Ord. No. 2018-0147 § 2, 11-13-2018; Ord. No. 2018-0161, § 2, 11-27-2018; Ord. No. 2019-0017, § 2, 2-26-2019; Ord. No. 2019-0180, § 2, 11-26-2019; Ord. No. 2020-0013, § 2, 1-28-2020; Ord. No. 2020-0022, § 2, 1-28-2020; Ord. No. 2020-0125, § 2, 10-27-2020; Ord. No. 2020-0156, § 2, 11-10-2020; Ord. No. 2021-0035, § 2, 4-13-2021; Ord. No. 2021-0044, § 2, 5-25-2021; Ord. No. 2021-0093, § 2, 8-10-2021; Ord. No. 2021-0101, § 2, 9-14-2021; Ord. No. 2021-0108, § 2,

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10-26-2021; Ord. No. 2021-0154, § 2, 12-14-2021; Ord. No. 2022-0022, § 3, 3-8-2022; Ord. No. 2022-0094, § 2, 11-22-2022; Ord. No. 2023-0055, § 2, 5-23-2023; Ord. No. 2023-0119, § 2, 10-10-2023; Ord. No. 2023-0127, § 2, 11-14-2023; Ord. No. 2023-0138, § 2, 11-28-2023; Ord. No. 2024-0019, § 2, 3-12-2024; Ord. No. 2024-0080, § 2, 9-10-2024)

CODE COMPARATIVE TABLE

1988 CODE

This table gives the location within this Code of those sections of the 1988 Code which are included herein. Sections of the 1988 Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of sections of the 1996 Code, see the table immediately following this table.

1988 Code Section	Section this Code	1988 Code Section	Section this Code
100.010	2-1	120.020	30-19
100.040	2-110	120.040	30-20
100.050	1-19	120.050(P)	30-59
100.070	2-361	120.070	30-31
110.010	2-2	125.010	2-381
—	2-23	125.020	2-382
110.020	2-60, 2-61	125.030	2-383
—	2-64—2-80	125.040	2-384
110.040	2-62	125.050	2-385
110.060	2-26	130.010	62-46
110.070	2-201	130.020	62-20
110.080	2-28	130.030	2-316
110.090(A)	2-350	130.040	62-47
110.090(B)	2-351	130.050	2-316
110.090(C)	2-352	135.010	82-1
110.090(D)—(F)	2-191	135.020	82-2
110.090(H)	2-353	135.030	82-3
—	2-362	135.040	82-49
110.090(I)	2-354	135.050	2-300—2-315
110.090(J)	2-355	135.060	82-83
110.090(K)	2-356	137.010	2-226
110.090(L)	2-357	137.020	2-227
110.090(M)	2-358	137.030	2-228
110.090(N)	2-359	140.010	26-19
110.090(O)	2-360	140.020	26-20
112.010	2-190	140.030	26-21
112.020	2-190	140.040	26-22
115.010	2-24	140.060	26-23
115.020	2-108, 2-109	140.070	26-24
115.040	2-25	140.080	26-25
115.050	2-136	200.010	54-19
115.060	2-156	200.040	54-20
115.070(C)	46-23	200.040	54-1
115.070(D)	46-24	203.010	42-55
115.070(E)	46-25	205.010	42-19—42-24
115.070(F)	46-26	—	78-1
115.070(G)	46-27	205.020	42-25
115.070(H)	46-24	205.200	58-1
115.070(I)	46-28	210.010	58-156
115.070(J)	46-29	210.040	14-25
115.070(L)	46-30	210.060	90-2
120.010	30-55	215.050	58-34

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1988 Code Section	Section this Code	1988 Code Section	Section this Code
220.040	58-1	280.020	14-114
220.050	58-262	280.030	14-115
225.020	14-30	280.040	14-31
225.070	42-56	280.050	14-32
225.080	58-97	280.060	14-34
225.090	78-2	280.070	14-35
225.110	78-3	280.090	14-36, 14-37
225.130	58-100	280.100	14-113
230.020	58-1	285.020	62-70
—	58-152	285.030	62-71
235.020	42-55	285.040	62-71
235.050	58-121—58-124	285.050	62-72
240.040	78-86—78-95	285.060	62-73
240.060	2-136	285.070	62-74
240.080	58-297	285.080	62-75
245.010	14-1	300.020	30-77
245.030	14-29	300.030	86-2
245.050	14-30	305.030	86-33
245.060	14-63	305.040	86-34
245.080	14-64	305.050	86-35
245.090	14-65	305.060	86-36
245.100	14-66	305.070	86-37
245.110	14-27	305.100	86-40
245.130	14-28	305.110	86-41
—	14-91	310.010	86-43
250.010	14-23	310.020	86-44
250.020	14-24	310.030	86-45
255.010	74-1	310.040	86-46
255.020	74-2	310.050	86-47
255.030	74-35	310.060	86-101
255.040	74-36	310.070	86-102
255.050	74-3	310.080	86-48
255.060	74-4	310.090	86-49
255.070	74-37	310.100	86-50
255.080	74-5	310.110	86-51
255.090	74-6	310.120	86-52
255.100	74-7	315.010	86-431
255.120	74-8	315.020	86-432
255.140	74-38	315.030	86-433
255.150	74-39	315.040	86-434
260.010	46-3	315.050	86-435
260.020	46-242	315.060	86-436
260.050	46-243	315.070	86-437
260.060	46-244	315.080	86-438
260.080	46-245	315.090	86-439
260.090	46-246	315.100	86-440
265.010	34-19	315.110	86-441
265.020	34-20	315.120	86-442
265.030	34-21	315.130	86-443
265.040	34-22	315.140	86-444
265.060	34-23	315.150	86-445
265.080	34-24	320.010	86-151
280.010	14-1	320.020	86-152

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1988 Code Section	Section this Code	1988 Code Section	Section this Code
320.030(B)	86-153	355.010	86-311
320.040	86-154	355.020	86-312
325.010	86-171	355.030	86-313
325.020	86-172	355.035	86-314
325.030	86-173	355.040	86-315
325.040	86-174	355.050	86-316
325.050	86-175	355.060	86-317
330.010	86-191	360.010	86-341
330.020	86-192	360.020	86-342
330.030	86-193	360.030	86-343
335.010	86-211	360.040	86-344
335.020	86-212	360.050	86-345
335.030	86-213	360.060	86-346
335.040	86-214	360.070	86-347
335.050	86-215	360.080	86-348
335.060	86-216	360.090	86-349
335.070	86-217	360.100	86-350
335.080	86-218	360.110	86-351
335.090	86-219	360.140	86-353
340.010	86-103	360.150	86-354
340.020	86-104	360.160	86-355
340.030	86-105	365.010	86-401
340.040	86-106	365.020	86-402
340.050	86-107	365.030	86-403
340.070	86-108	365.040	86-404
340.080	86-109	365.050	86-405
340.090	86-110	365.060	86-406
340.100	86-111	365.070	86-407
340.110	86-112	370.010	86-371
340.120	86-114	370.020	86-372
340.130	86-115	370.030	86-373
340.150	86-116	370.040	86-374
340.160	86-117	370.050	86-375
340.180	86-2	370.060	86-377
—	86-118	375.010	30-78
340.200	86-119	375.020	30-79
340.210	86-120	375.030	30-80
340.220	86-122	375.040	30-81
340.230	86-123	380.010	86-71
340.240	86-2	380.020	86-72
340.240	86-124	380.030	86-73
340.250	86-521	400.010	94-1
345.010	86-281	400.020	94-2
345.020	86-282	400.030	94-3
345.030	86-283	400.040	94-4
345.040	86-284	400.050	94-5
345.050	86-285	405.020	94-31
345.060	86-286	405.030	94-32
345.070	86-287	405.040	94-33
345.080	86-288	405.050	94-34
350.010	86-471, 86-472	405.070	94-36
350.040	86-473	405.080	94-37
350.060	86-476	405.090	94-38

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1988 Code Section	Section this Code	1988 Code Section	Section this Code
410.010	94-65	445.020	94-220
410.020	94-66	445.030	94-221
410.030	94-67	445.040	94-222
410.040	94-68	500.035	18-72
410.050	94-69	515.030	90-70
410.060	94-70	515.040	90-106
410.070	94-71	515.060	90-130
410.080	94-75	515.070	90-161
420.010	94-129	515.080	90-71
420.020	94-130	515.090	90-107
420.030	94-131	515.100	90-131
420.040	94-132	515.110	90-162
425.010	94-163	515.120	90-163
425.020	94-164	515.130	90-164
425.030	94-165	515.140	90-72
425.040	94-166	515.150	90-73
425.050	94-167	515.160	90-74
425.060	94-168	515.170	90-75
430.010	66-22	515.180	90-76
430.020	66-1	515.190	90-77
430.030	66-23	515.210	90-1
430.040	66-49	515.220	90-78
430.050	66-25	515.230	90-79
430.060	66-26	515.240	90-80
430.070	66-50	515.250	90-2
430.080	66-51	515.260	90-182
430.090	66-52	515.270	90-183
430.100	66-78—66-85	515.280	90-184
430.110	66-114	605.010	22-1
430.130	66-115	605.020	22-21—22-36
430.140	66-116	605.030	22-38
430.150	66-117	605.050	22-40
430.160	66-118	605.060	22-41
430.170	66-119	605.070	22-42
430.180	66-28	610.010	22-106
430.190	66-29	610.020	22-107
430.200	66-30	610.030	22-108
430.210	66-24	610.040	22-1
435.010	94-190	610.050	22-76
440.010	66-205	610.060	22-77
440.020	66-206	610.070	22-78
440.030	66-207	610.080	22-79
440.040	66-208	630.010	62-1
440.041	66-209	635.010	90-23
440.050	66-210	635.020	90-24
440.060	66-1	635.021	90-25
440.060	66-211	635.025	90-26
440.070	66-212	635.030	90-27
440.080	66-213	635.040	90-28
440.090	66-214	635.050	90-29
440.100	66-215	635.055	90-31
440.110	66-204	635.056	90-32
445.010	94-219	635.060	90-33

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1988 Code Section	Section this Code	1988 Code Section	Section this Code
635.070	90-34	670.070	22-296
635.075	90-36	670.080	22-297
635.080	90-37	670.090	22-298
635.090	90-38	675.010	22-1
635.100	90-39	675.020	22-331
635.110	90-40	675.030	22-332
635.115	90-41	675.040	22-333
635.117	90-43	675.050	22-334
635.125	2-330—2-333	675.050	86-129
635.130	2-285	675.060	22-335
—	90-1	675.070	22-336
640.010	90-201	675.080	22-337
640.030	90-202	—	86-129
645.010	82-126	675.090	22-338
645.020	82-127	680.005	54-1
645.030	82-129	680.010	54-136
645.040	82-130	680.020	54-137, 54-138
645.050	82-131	680.030	54-108
645.060	82-132	680.040	54-109
645.070	82-133	680.050	54-110
645.080	82-134	680.060	54-111
645.090	82-135	685.010	22-1
645.100	82-136	685.020	22-199
645.110	82-137	685.030	22-200
655.010	22-161	685.040	22-201
—	82-26	685.050	22-202
655.020	22-162	685.060	22-203
—	82-27	685.070	22-204
655.030—655.050	82-25	690.010	22-366
655.030	22-163	690.020	22-365
655.060	82-28	690.030	22-368
655.070	82-29	690.040	22-375
655.080	82-30	690.050	22-367
657.010	82-92	690.060	22-370
657.020	82-92	690.070	22-371
—	82-93	690.080	22-372
657.030	82-94		
657.040	82-95		
657.050	82-96		
657.060	82-97		
657.070	82-98		
657.080	82-99		
657.090	82-100		
657.100	82-101		
657.110	82-102		
657.120	82-103		
657.130	82-104		
670.010	22-1		
670.020	22-291		
670.030	22-292		
670.040	22-293		
670.050	22-294		
670.060	22-295		

CODE COMPARATIVE TABLE

1996 CODE

This table gives the location within this Code of those sections of the 1996 Code, as updated through January 22, 2001, which are included herein. Sections of the 1996 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of sections of the 2005 Code, see the table immediately following this table.

1996 Code Section	Section this Code	1996 Code Section	Section this Code
100.010	2-1	120.220	30-79
100.030	2-110	120.230	30-80
100.040	1-19	120.240	30-81
100.050	2-361	125.010	2-381
100.060	1-13	125.020	2-382
105.010	2-2	125.030	2-383
—	2-23	125.040	2-384
105.020	2-60, 2-61	125.050	2-385
—	2-64—2-80	130.010	62-46
105.040	2-62	130.020	62-20
105.050	2-26	130.030	2-316
105.060	2-27	130.040	62-47
105.080	2-201	130.050	2-316
105.090	2-28	135.010	82-1
105.100	2-108, 2-109	135.020	82-2
110.010	2-190	135.030	82-3
110.020	2-190	135.040(A)	82-49
115.010	2-24	135.050(A)	2-300
115.020	2-25	135.050(B)	2-301
115.030	2-136	135.050(C)	2-302
115.040	2-156	135.050(D)	2-303
120.010	30-55	135.050(E)	2-304
120.020	30-56	135.050(F)	2-305
120.030	30-19	135.050(G)	2-306
120.040	30-57	135.050(H)	2-307
120.050	30-20	135.050(I)	2-308
120.060	30-58	135.050(J)	2-309
120.070	30-21	135.050(K)	2-310
120.080	30-22	135.050(L)	2-311
120.090	30-23	135.050(M)	2-312
120.100	30-24	135.050(N)	2-313
120.110	30-25	135.050(O)	2-314
120.120	30-26	135.050(P)	2-315
120.130	30-27	135.060	82-83
120.140	30-28	135.070(A)	82-72
120.150	30-29	135.070(B)	82-73
120.160	30-59	135.070(C)	82-74
120.170	30-30	140.010	2-226
120.180	30-31	140.020	2-227
120.200	30-77	140.030	2-228
120.210	30-78	145.010	26-19

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1996 Code Section	Section this Code	1996 Code Section	Section this Code
145.020	26-20	205.290	58-155
145.030	26-21	205.320	58-181
145.040	26-22	205.330	58-1
145.060	26-23	205.340	58-202
145.070	26-24	205.350	58-203
145.080	26-25	205.360	58-204
155.010	2-252	205.370	58-205
155.020	2-253	205.380	58-231
160.010	2-350	205.390	58-232
160.020	2-351	205.400	58-233
160.030	2-352	205.410	58-234
160.040—160.060	2-191	205.420(A)	58-121
160.080	2-353	205.420(B)	58-122
—	2-362	205.420(C)	58-123
160.090	2-354	205.420(D)	58-124
160.100	2-355	205.450(A)	78-86
160.110	2-356	205.450(B)	78-87
160.120	2-357	205.450(C)	78-88
160.130	2-358	205.450(D)	78-89
160.140	2-359	205.450(E)	78-90
160.150	2-360	205.450(F)	78-91
200.010	54-19	205.450(G)	78-92
200.020	54-20	205.450(H)	78-93
—	54-1	205.450(I)	78-94
200.050	54-21	205.450(J)	78-95
205.010	58-31	205.460	58-297
205.020	58-32	205.480	78-3
205.030	58-33	210.010	54-1
205.050	58-34	210.020	54-81
205.055	58-35	210.030	54-82
205.060	58-36	210.040	54-83
205.070	58-37	210.050	54-84
205.080	58-1	210.060	54-85
—	58-61	210.070	54-86
205.090	58-62	210.080	54-87
205.100	58-63	210.090	54-88
205.105	58-64	210.100	54-89
205.110	58-65	215.020	62-70
205.120	58-1	215.030	62-71
205.130	58-262	215.040	62-71
205.140	58-91	215.050	62-72
205.150	58-92	215.060	62-73
205.160	58-93	215.070	62-74
205.170	58-94	215.080	62-75
205.180	14-30	215.100	62-76
205.190	42-56	230.010(A)	42-19
205.200	58-97	230.010(B)	42-20
205.210	78-2	230.010(C)	42-21
205.215	58-98	230.010(D)	42-22
205.230	58-100	230.010(E)	42-23
205.240	58-151	230.010(F)	42-24
205.250	58-1	230.010(G)	78-1
—	58-152	230.020	42-25

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1996 Code Section	Section this Code	1996 Code Section	Section this Code
235.010	42-55	265.100	74-7
240.010	34-19	265.120	74-8
240.020	34-20	265.130	74-38
240.030	34-21	265.140	74-39
240.040	34-22	270.010	46-3
240.060	34-23	270.020	46-242
240.080	34-24	270.050	46-243
250.030	46-23	270.060	46-244
250.040	46-24	270.080	46-245
250.050	46-25	270.090	46-246
250.060	46-26	275.010	14-1
250.070	46-27	275.030	14-29
250.080	46-24	275.050	14-30
250.090	46-28	275.060	14-63
250.100	46-29	275.070	14-64
250.110	46-30	275.080	14-65
255.010	46-53	275.090	14-66
255.020	46-53	275.100	14-27
255.030	46-54	275.110	14-28
260.005	46-85	275.120	14-91
260.010	46-3	275.130	14-33
—	46-85	275.140	14-1
260.020	46-86	275.150	14-114
260.030	46-87	275.160	14-115
260.040	46-88	275.170	14-31
260.050	46-89	275.180	14-32
260.060	46-90	275.190	14-34
260.070	46-91	275.200	14-35
260.080	46-92	275.220(A)	14-36
260.090	46-93	275.220(B)	14-37
260.100	46-94	275.230	14-113
260.110	46-95	275.250	14-23
260.120	46-96	275.260	14-24
260.130	46-97	275.270	14-25
260.140	46-98	280.010	58-156
260.150	46-127	280.040	90-2
260.160	46-128	290.010	50-1
260.170	46-129	290.020	50-2
260.180	46-130	290.030	50-25
260.190	46-131	290.040	50-26
260.200	46-132	290.050	50-27
260.210	46-133	290.060	50-102
260.220	46-134	290.070	50-103
260.230	46-135	290.080	50-104
265.010	74-1	290.090	50-122
265.020	74-2	290.100	50-58
265.030	74-35	290.110	50-59
265.040	74-36	290.120	50-77
265.050	74-3	290.130	50-78
265.060	74-4	290.140	50-79
265.070	74-37	295.010	66-1
265.080	74-5	295.020	66-170
265.090	74-6	295.030	66-171

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1996 Code Section	Section this Code	1996 Code Section	Section this Code
295.040	66-172	325.040	86-174
295.050	66-173	325.050	86-175
295.060	66-174	330.010	86-191
295.070	66-138	330.020	86-192
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